

**CITY OF MONTCLAIR
AGENDA FOR CITY COUNCIL, SUCCESSOR AGENCY,
MONTCLAIR HOUSING CORPORATION, MONTCLAIR
HOUSING AUTHORITY, AND MONTCLAIR COMMUNITY
FOUNDATION MEETINGS**

To be held in the Council Chambers
5111 Benito Street, Montclair, California

May 20, 2019

7:00 p.m.

Please note Council Member Martinez will participate via teleconferencing by speakerphone or other electronic means from the following additional location, which is accessible to the public: 999 San Bernardino Road, Upland, CA 91786.

As a courtesy, please silence your cell phones and other electronic devices while the meeting is in session.

Persons wishing to speak on an agenda item, including closed session items, are requested to complete a yellow Speaker Information Card located at the entrance of the Council Chambers and present it to the City Clerk prior to consideration of the item. The Mayor/Chair (or the meeting's Presiding Officer) will recognize those who have submitted a card at the time of the item's consideration by the City Council/Board of Directors/Commissioners, and speakers may approach the podium to provide comments on the item at that time.

Audio recordings of the CC/SA/MHC/MHA/MCF meetings are available on the City's website at www.cityofmontclair.org and can be accessed by the end of the next business day following the meeting.

- I. CALL TO ORDER** City Council [CC], Successor Agency Board [SA],
Montclair Housing Corporation Board [MHC],
Montclair Housing Authority Commission [MHA],
Montclair Community Foundation Board [MCF]

II. INVOCATION

In keeping with our long-standing tradition of opening our Council meetings with an invocation, this meeting may include a nonsectarian invocation. Such invocations are not intended to proselytize or advance any faith or belief or to disparage any faith or belief. Neither the City nor the City Council endorses any particular religious belief or form of invocation.

III. PLEDGE OF ALLEGIANCE

IV. ROLL CALL

V. PRESENTATIONS — None

VI. PUBLIC HEARINGS — None

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VII. PUBLIC COMMENT

This section is intended to provide members of the public with an opportunity to comment on any subject that does not appear on this agenda. Each speaker will be afforded up to five minutes to address the City Council/Boards of Directors/Commissioners. (Government Code Section 54954.3)

Under the provisions of the Brown Act, the meeting bodies are prohibited from participating in substantial discussion of, or taking action on items not listed on the agenda.

VIII. CONSENT CALENDAR

A. Approval of Minutes

1. Regular Joint Meeting — May 6, 2019 [CC/SA/MHC/MHA/MCF]

B. Administrative Reports

- | | |
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| 1. Consider Receiving and Filing of Treasurer's Report [CC] | 4 |
| 2. Consider Approval of Warrant Register and Payroll Documentation [CC] | 5 |
| 3. Consider Receiving and Filing of Treasurer's Report [SA] | 6 |
| 4. Consider Approval of Warrant Register [SA] | 7 |
| 5. Consider Receiving and Filing of Treasurer's Report [MHC] | 8 |
| 6. Consider Approval of Warrant Register [MHC] | 9 |

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8. Consider Approval of Warrant Register [MHA]	11
9. Consider Setting a Public Hearing on Monday, June 3, 2019, at 7:00 p.m. in the City Council Chambers to Consider First Reading of Ordinance No. 19-985 Adding Section 6.16.025 to the Montclair Municipal Code Establishing and Mandating a Commercial and Organic Waste Recycling Program and Amending Specific Sections of Chapters 1.12 and 6.16 Related to Penalties and Refuse Collection and Disposal in the City of Montclair [CC]	12
10. Consider Authorizing a \$59,113 Appropriation from the Federal Asset Forfeiture Fund for the Purchase of an Updated Ventilation System Controller and Replacement Target Carriers and Control System for the Police Department’s Firearms Range [CC]	19
 C. Agreements	
1. Consider Authorizing the Receipt of \$17,586 from the FY2017 Homeland Security Grant Program Under Agreement No. 19-35 with the San Bernardino County Fire Protection District [CC]	
Consider Authorizing a \$2,000 Appropriation from the Public Safety Grant Fund to Purchase 16 Flat-Screen TV Monitors And Stands for the Communications Center [CC]	22
2. Consider Authorizing an Additional \$95,000 Appropriation from the SB1 Fund for Costs Related to Construction of the Moreno Street Rehabilitation Project [CC]	
Consider Award of Contract to Hardy & Harper, Inc., in the Amount of \$453,871 for Construction of the Moreno Street Rehabilitation Project [CC]	
Consider Approval of Agreement No. 19-36 with Hardy & Harper, Inc., for Construction of the Moreno Street Rehabilitation Project [CC]	
Consider Authorization of a \$40,000 Construction Contingency for the Moreno Street Rehabilitation Project [CC]	47
3. Consider Award of Contract to Gentry Brothers, Inc., in the Amount of \$286,929 for Construction of the San Jose Street Rehabilitation Project [CC]	
Consider Approval of Agreement No. 19-37 with Gentry Brothers, Inc., for Construction of the San Jose Street Rehabilitation Project [CC]	
Consider Authorization of a \$10,000 Construction Contingency for the San Jose Street Rehabilitation Project [CC]	54
 D. Resolutions	
1. Consider Adoption of Resolution Nos. 19-3237 and 19-3238 Establishing Proposed Schedules of Total Monthly Rates for Refuse and Sewer Program Services, Subject to the Proposition 218 Notification, Protest, and Public Hearing Process [CC]	
Consider Authorizing Staff to Send Notices to Property Owners Regarding a Public Hearing to Consider Establishing Maximum Monthly Residential and Commercial Rate Caps for Solid Waste Disposal Services, Pursuant to the Requirements of Proposition 218 [CC] <i>(continued on following page)</i>	

Consider Setting a Proposition 218 Public Hearing for July 15, 2019, at 7:00 p.m. in the City Council Chambers to Consider Establishing a Five-Year Schedule of Maximum Monthly Rate Caps for Refuse and Sewer Services [CC]

Consider Allocating Up to \$12,000 from the Contingency Fund to Mail to Property Owners Notices of a Proposition 218 Public Hearing Regarding Establishing a Five-Year Schedule of Maximum Monthly Rate Caps for Refuse and Sewer Services [CC]

Consider Setting a Public Hearing for July 15, 2019, at 7:00 p.m. in the City Council Chambers to Consider Setting Rates for Residential and Commercial Refuse Services, Effective July 1, 2019 [CC]

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IX. PULLED CONSENT CALENDAR ITEMS

X. BUSINESS ITEMS — None

XI. RESPONSE — None

XII. COMMUNICATIONS

A. City Department Reports

- 1. Human Services Department — Summer Programs & Events

B. City Attorney

- 1. Request to Meet in Closed Session Pursuant to Government Code §54956.9(d)(1) Regarding Pending Litigation [CC]

Cespedes v. City of Montclair

C. City Manager/Executive Director

D. Mayor/Chairperson

- 1. Announcement of Special Meeting of the City Council to be held on Thursday, May 30, 2019, at 6:00 p.m. in the City Council Chambers for a Council Workshop Related to Proposed Regulation of Commercial Cannabis Activities in the City of Montclair

E. Council Members/Directors

F. Committee Meeting Minutes (for informational purposes only)

- 1. Personnel Committee Meeting— May 6, 2019 [CC]

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XIII. CLOSED SESSION

XIV. CLOSED SESSION ANNOUNCEMENTS

XV. ADJOURNMENT

The next regular joint meeting of the City Council, Successor Agency Board, Montclair Housing Corporation Board, Montclair Housing Authority Commission, and Montclair Community Foundation Board will be held on Monday, June 3, 2019, at 7:00 p.m. in the Council Chambers.

Reports, backup materials, and additional materials related to any item on this Agenda distributed to the Acting Bodies after distribution of the Agenda packet are available for public inspection in the City Clerk's Office at 5111 Benito Street, Montclair, California, between 7:00 a.m. and 6:00 p.m., Monday through Thursday.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office at (909) 625-9416. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 35.102-35.104 ADA Title II)

I, Andrea M. Phillips, City Clerk, hereby certify that I posted, or caused to be posted, a copy of this Agenda not less than 72 hours prior to this meeting on the bulletin board adjacent to the north door of Montclair City Hall at 5111 Benito Street, Montclair, CA 91763 and at the teleconference location at 999 San Bernardino Road, Upland, CA 91786, on May 16, 2019.



AGENDA REPORT

DATE:	MAY 20, 2019	FILE I.D.:	FIN520
SECTION:	ADMIN. REPORTS	DEPT.:	ADMIN. SVCS.
ITEM NO.:	1	PREPARER:	J. KULBECK
SUBJECT:	CONSIDER RECEIVING AND FILING OF TREASURER'S REPORT		

REASON FOR CONSIDERATION: The City Council is requested to consider receiving and filing the City of Montclair Treasurer's Report for the month ending April 30, 2019, pursuant to state law.

BACKGROUND: Included in your agenda packet is a copy of the Treasurer's Report for the period ending April 30, 2019.

FISCAL IMPACT: Routine—report of City's cash and investments.

RECOMMENDATION: Staff recommends the City Council receive and file the Treasurer's Report for the month ending April 30, 2019.



AGENDA REPORT

DATE:	MAY 20, 2019	FILE I.D.:	FIN540
SECTION:	ADMIN. REPORTS	DEPT.:	FINANCE
ITEM NO.:	2	PREPARER:	L. LEW/V. FLORES
SUBJECT:	CONSIDER APPROVAL OF WARRANT REGISTER AND PAYROLL DOCUMENTATION		

REASON FOR CONSIDERATION: The City Council is requested to consider approval of the Warrant Register and Payroll Documentation.

BACKGROUND: Mayor Pro Tem Raft has examined the Warrant Register dated May 20, 2019; and the Payroll Documentation dated April 28, 2019; and recommends their approval.

FISCAL IMPACT: The Warrant Register dated May 20, 2019, totals \$770,060.44; and the Payroll Documentation dated April 28, 2019, totals \$595,828.61 gross, with \$419,236.50 net being the total cash disbursement.

RECOMMENDATION: Staff recommends the City Council approve the above-referenced Warrant Register and Payroll Documentation.



AGENDA REPORT

DATE:	MAY 20, 2019	FILE I.D.:	FIN510
SECTION:	ADMIN. REPORTS	DEPT.:	SUCCESSOR RDA
ITEM NO.:	3	PREPARER:	C. RAMIREZ
SUBJECT:	CONSIDER RECEIVING AND FILING OF TREASURER'S REPORT		

REASON FOR CONSIDERATION: City Council acting as Successor to the Redevelopment Agency Board of Directors is requested to consider receiving and filing the Successor to the Redevelopment Agency Treasurer's Report for the month ending April 30, 2019, pursuant to state law.

BACKGROUND: Included in your agenda packet is a copy of the Successor to the Redevelopment Agency Treasurer's Report for the period ending April 30, 2019.

FISCAL IMPACT: Routine—report of the Agency's cash.

RECOMMENDATION: Staff recommends the City Council acting as Successor to the Redevelopment Agency Board of Directors receive and file the Successor to the Redevelopment Agency Treasurer's Report for the month ending April 30, 2019.



AGENDA REPORT

DATE:	MAY 20, 2019	FILE I.D.:	FIN530
SECTION:	ADMIN. REPORTS	DEPT.:	SUCCESSOR RDA
ITEM NO.:	4	PREPARER:	C. RAMIREZ
SUBJECT:	CONSIDER APPROVAL OF WARRANT REGISTER		

REASON FOR CONSIDERATION: The City Council acting as Successor to the Redevelopment Agency Board of Directors is requested to consider receiving and filing the Successor to the Redevelopment Agency Warrant Register for the month ending April 30, 2019, pursuant to state law.

BACKGROUND: Vice Chairperson Raft has examined the Successor to the Redevelopment Agency Warrant Register dated 04.01.19-04.30.19 in the amounts of \$10,961.01 for the Combined Operating Fund; \$0.00 for the Redevelopment Obligation Retirement Funds and finds it to be in order.

FISCAL IMPACT: Routine—report of Agency's obligations.

RECOMMENDATION: Vice Chairperson Raft recommends the City Council as Successor to the Redevelopment Agency Board of Directors approve the Successor to the Redevelopment Agency Warrant Register for the period ending April 30, 2019.



AGENDA REPORT

DATE:	MAY 20, 2019	FILE I.D.:	FIN525
SECTION:	ADMIN. REPORTS	DEPT.:	MHC
ITEM NO.:	5	PREPARER:	C. RAMIREZ
SUBJECT:	CONSIDER RECEIVING AND FILING OF TREASURER'S REPORT		

REASON FOR CONSIDERATION: Montclair Housing Corporation Board of Directors is requested to receive and file the Montclair Housing Corporation Treasurer's Report for the month ending April 30, 2019, pursuant to state law.

BACKGROUND: Included in your agenda packet is a copy of the Treasurer's Report for the period ending April 30, 2019.

FISCAL IMPACT: Routine—report of the Montclair Housing Corporation's cash and investments.

RECOMMENDATION: Staff recommends the Montclair Housing Corporation Board of Directors receive and file the Treasurer's Report for the month ending April 30, 2019.



AGENDA REPORT

DATE:	MAY 20, 2019	FILE I.D.:	FIN545
SECTION:	ADMIN. REPORTS	DEPT.:	MHC
ITEM NO.:	6	PREPARER:	C. RAMIREZ
SUBJECT:	CONSIDER APPROVAL OF WARRANT REGISTER		

REASON FOR CONSIDERATION: The Montclair Housing Corporation Board of Directors is requested to consider receiving and filing the Warrant Register for the month ending April 30, 2019, pursuant to state law.

BACKGROUND: Vice Chairperson Raft has examined the Warrant Register dated 04.01.19-04.30.19 in the amount of \$43,642.20 for the Montclair Housing Corporation and finds it to be in order.

FISCAL IMPACT: Routine—report of Montclair Housing Corporation's obligations.

RECOMMENDATION: Vice Chairperson Raft recommends the Montclair Housing Corporation Board of Directors approve the Warrant Register for the period ending April 30, 2019.



AGENDA REPORT

DATE:	MAY 20, 2019	FILE I.D.:	FIN525
SECTION:	ADMIN. REPORTS	DEPT.:	MHA
ITEM NO.:	7	PREPARER:	C. RAMIREZ
SUBJECT:	CONSIDER RECEIVING AND FILING OF TREASURER'S REPORT		

REASON FOR CONSIDERATION: The Montclair Housing Authority Board of Directors is requested to receive and file the Montclair Housing Authority Treasurer's Report for the month ending April 30, 2019, pursuant to state law.

BACKGROUND: Included in your agenda packet is a copy of the Treasurer's Report for the period ending April 30, 2019.

FISCAL IMPACT: Routine—report of the Montclair Housing Authority's cash.

RECOMMENDATION: Staff recommends the Montclair Housing Authority Board of Directors receive and file the Treasurer's Report for the month ending April 30, 2019.



AGENDA REPORT

DATE:	MAY 20, 2019	FILE I.D.:	FIN545
SECTION:	ADMIN. REPORTS	DEPT.:	MHA
ITEM NO.:	8	PREPARER:	C. RAMIREZ
SUBJECT:	CONSIDER APPROVAL OF WARRANT REGISTER		

REASON FOR CONSIDERATION: The Montclair Housing Authority Board of Directors is requested to consider receiving and filing the Warrant Register for the month ending April 30, 2019, pursuant to state law.

BACKGROUND: Vice Chairperson Raft has examined the Warrant Register dated 04.01.19-04.30.19 in the amount of \$0.00 for the Montclair Housing Authority and finds it to be in order.

FISCAL IMPACT: Routine—report of Montclair Housing Authority's obligations.

RECOMMENDATION: Vice Chairperson Raft recommends the Montclair Housing Authority Board of Directors approve the Warrant Register for the period ending April 30, 2019.



AGENDA REPORT

DATE: MAY 20, 2019

FILE I.D.: REF020

SECTION: ADMIN. REPORTS

DEPT.: FINANCE

ITEM NO.: 9

PREPARER: D. PARKER

SUBJECT: CONSIDER SETTING A PUBLIC HEARING ON MONDAY, JUNE 3, 2019, AT 7:00 P.M. IN THE CITY COUNCIL CHAMBERS TO CONSIDER FIRST READING OF ORDINANCE NO. 19-985 ADDING SECTION 6.16.025 TO THE MONTCLAIR MUNICIPAL CODE ESTABLISHING AND MANDATING A COMMERCIAL AND ORGANIC WASTE RECYCLING PROGRAM AND AMENDING SPECIFIC SECTIONS OF CHAPTERS 1.12 AND 6.16 RELATED TO PENALTIES AND REFUSE COLLECTION AND DISPOSAL IN THE CITY OF MONTCLAIR

REASON FOR CONSIDERATION: The City Council is requested to consider setting a public hearing for Monday, June 3, 2019, at 7:00 p.m. in the City Council Chambers to consider conducting the first reading of Ordinance No. 19-985 adding section 6.16.025 to the Montclair Municipal Code establishing and mandating a Commercial and Organic Waste Recycling Program and amending specific sections of Chapters 1.12 and 6.16 related to penalties and refuse collection and disposal in the City of Montclair. Amendments to the Montclair Municipal Code require public hearing review and approval by the City Council.

BACKGROUND: Chapter 6.16 of Title 6 of the City of Montclair Municipal Code contains the regulations for Refuse Collection and Disposal; however, Chapter 6.16 does not presently include commercial general and organic waste recycling processes. These processes are currently mandated by state law. State law requires that local governments implement these requirements.

The State of California, Department of Resources Recycling and Recovery (CalRecycle) administers and provides oversight for all of California's state-managed, non-hazardous waste handling and recycling programs. As part of our implementation of these state's requirements, the City created a voluntary commercial general and organic waste recycling program. The rate of participation in the program, while increasing, has not increased fast enough to satisfy CalRecycle's requirements. CalRecycle is threatening notification of non-compliance and ultimately can issue penalties of up to \$10,000 per day if conformance with their established criteria is not achieved. In order to achieve compliance, they now requiring cities' established commercial recycling programs become mandatory.

To make commercial general and organic waste recycling procedures mandatory, Section 6.16.025 would need to be added to require these processes. This would also establish the City's ability to enforce these requirements. Staff is also recommending some cleanup language to other areas of Chapter 6.16 (Refuse Collection and Disposal) and 1.12 (Penalties) to correct typographical errors, remove redundancies, and include references to other pertinent sections of the Code. Ordinance No. 19-85 would be effective 30 days after adoption by City Council.

FISCAL IMPACT: Proposed Ordinance No. 19-985 adding Section 6.16.025 to the Montclair Municipal Code covers refuse collection processes and procedures and does not involve the setting of fees or costs. The City Council's adoption of Ordinance No. 19-985 would have no direct fiscal impact other than to avoid penalties imposed by CalRecycle.

RECOMMENDATION: Staff recommends the City Council set a public hearing for Monday, June 3, 2019, at 7:00 p.m. in the City Council Chambers Ordinance No. 19-985 adding section 6.16.025 to the Montclair Municipal Code establishing and mandating a Commercial and Organic Waste Recycling Program and amending specific sections of Chapters 1.12 and 6.16 related to penalties and refuse collection and disposal in the City of Montclair.

ORDINANCE NO. 19-985

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR AMENDING SECTIONS WITHIN CHAPTERS 6.02 (DEFINITIONS) AND 6.16 (REFUSE COLLECTION AND DISPOSAL) OF THE MONTCLAIR MUNICIPAL CODE; ADDING SECTION 6.16.025 ESTABLISHING A MANDATORY COMMERCIAL RECYCLING AND ORGANIC WASTE RECYCLING/DIVERSION PROGRAM; AND AMENDING SECTION 1.12.010 (PENALTIES)

WHEREAS, various codes of the State of California establish the requirements for refuse collection, recycling and disposal; and

WHEREAS, implementation of the various requirements specified in applicable Codes was accomplished by the City of Montclair in Title 6 - Health and Safety of its Municipal Code which specifies processes and procedures covering Refuse Collection and Disposal; and

WHEREAS, to recognize recycling and organic waste disposal programs currently required by State Law and available, revision of the Municipal Code is required.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MONTCLAIR DOES HEREBY ORDAIN AS FOLLOWS:

SECTION I. Section 6.02.010 of Chapter 6.02 of Title 6 is amended to include the following definitions:

6.02.010 - Definitions.

Business means a commercial or public entity including, but not limited to, a firm, partnership, proprietorship, joint-stock company, corporation, or association that is organized as a for-profit or nonprofit entity, strip mall, school, school district, special district, federal, state, local, regional agency or facility. "Business" also includes a multifamily residential dwelling or mobile home park of five or more units.

Organic waste means food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in with food waste.

Scavenging means engaging in any of the following activities:

1. Tampering or meddling with a container used for disposal of solid waste including recyclable materials.
2. Tampering or meddling with the contents of any container used for disposal of solid waste including recyclable materials.
3. Removing the contents of any container used for disposal of solid waste including recyclable materials.
4. Removing any container used for disposal of solid waste, including recyclable materials, from the location where the container has been placed by the owner of the container or owner's agent or employee.
5. Removing, tampering, or meddling with solid waste, including recyclable materials, set out for collection pursuant to the provisions of Chapter 6.16 on private property or on any sidewalk, street, or public right-of-way.

SECTION II. Section 6.16.020 is hereby amended as follows:

6.16.020 - Receptacle required.

- A. All garbage, rubbish and waste materials as defined in Chapter ~~7-02~~ **6.02** of this title shall be deposited in a single receptacle or receptacles as required ~~and receptacle(s) shall not exceed 36 gallons,~~ **which may be provided by the City or its duly authorized agent.** When garbage is deposited with waste material, rubbish or refuse, the receptacle shall be of a ~~metal,~~ plastic or otherwise impervious material with a tight-fitting cover.

- B. ~~Refuse containers shall be provided by the owner, tenant, lessee or occupant of the premises with the exception of bins that are provided to a multifamily, commercial or industrial property by the City's contractor.~~ Refuse containers shall be maintained in good condition. Any container that does not conform to the provisions of this chapter or that may have ragged or sharp edges or any other defect liable to hamper or injure the person collecting the contents thereof shall be promptly replaced upon notice. The City Manager or his/her designee shall have the authority to refuse collection services for failure to comply herewith.

~~G. Plastic bags having sufficient strength and watertightness and which are designed for the containment of refuse may also be used. Cardboard barrels with metal rims are not proper trash containers. When set out on the curb side, both cardboard barrels and boxes shall be picked up and not returned to the resident.~~

SECTION III. Section 6.16.025, establishing and mandating a commercial and organic waste recycling program, is hereby added to Chapter 6.16 of the Montclair Municipal Code as follows:

6.16.025 – Commercial recycling and organic waste recycling/diversion.

- A. Any business generating four or more cubic yards of solid waste per week and any multifamily residential dwelling of five or more units shall reuse, recycle, compost, or otherwise divert its commercial solid waste from disposal by taking one, or any combination, of the following actions:
1. Source separate recyclable materials from the solid waste being discarded and subscribe with the City's franchise hauler, for the pickup of the recyclable materials separately from the solid waste to divert the recyclable materials from disposal.
 2. Source separate recyclable materials from the solid waste and self-haul them to a certified materials recovery facility (MRF) or other mixed waste processing facility for diversion from disposal.
 - a. Each business subject to this section that does not subscribe with city's franchise hauler for pick-up of its recyclable materials shall be responsible for ensuring and demonstrating its compliance with the requirements of this section to the City Manager or their designee with satisfactory proof of acceptable levels of waste diversion on a quarterly basis (March, June, September and December).
 - b. To comply with subsection B of this section, property owners of multifamily complexes may require tenants to source separate their recyclable materials. Tenants must source separate their recyclable materials as required by property owners of multifamily complexes subject to this section.
 3. The City shall implement a commercial solid waste recycling program that consists of education, outreach and monitoring of businesses, that is designed to divert commercial solid waste from businesses.
 4. Nothing in this section is intended to prevent or limit the existing right of any business to donate, sell, or otherwise dispose of its recyclable materials as provided by Section 41952 of the Public Resources Code.
- B. Any business and any multifamily residential dwelling of five or more units generating four or more cubic yards of solid waste per week shall recycle, compost, or otherwise divert its solid waste from disposal by taking one, or any combination, of the following actions.
1. Source separate organic waste from the solid waste being discarded, and subscribe with the City's franchise hauler for the pick-up of the organic materials separately from the solid waste to divert the materials from disposal.
 2. Source separate organic waste from the solid waste and self-haul them to a certified organic processing and recycling facility for diversion from disposal.

- a. Each business subject to this section that does not subscribe with the City's franchise hauler for pick-up of its organic materials shall be responsible for ensuring and demonstrating its compliance with the requirements of this section to the City Manager or their designee with satisfactory proof of acceptable levels of organics recycling on a quarterly basis (March, June, September and December).
 - b. To comply with subsection B of this section, property owners of multifamily complexes may require its contracted landscapers to recycle the green waste materials and provide satisfactory proof that the materials are being properly recycled.
3. The City's franchise hauler shall implement a commercial organics recycling program that consists of education, outreach and monitoring of businesses, that is designed to divert organic materials from businesses.
- C. Nothing in this section is intended to prevent or limit the existing right of any business to donate, sell or otherwise dispose of its organics materials as provided by Section 41952 of the Public Resources Code.
- D. Penalties. Any person who violates any provision of this section shall be guilty of a misdemeanor or an infraction, at the discretion of the City Manager, as defined by and punishable in the manners provided for in Section 1.12.010 of this Code.
1. Attorney Fees. In addition to any civil and criminal penalties as provided by the provisions of this section or otherwise, the City may recover reasonable attorneys' fees and court costs other such expenses of litigation and/or prosecution as it may occur by appropriate suit at law against a person, business, or entity found to have violated any provisions of this chapter.

SECTION IV. Section 6.16.140 prohibiting scavenging in solid waste containers in the City is hereby amended in order to add references and remove redundancies within the Code as follows:

6.16.140 – Scavenging Prohibited.

A. Scavenging. It is unlawful for any person to engage in the act of scavenging, as defined in Section 6.02.010. ~~For purposes of this section, "scavenging" means engaging in any of the following activities:~~

- ~~1. Tampering or meddling with a container used for disposal of solid waste including recyclable materials:~~
- ~~2. Tampering or meddling with the contents of any container used for disposal of solid waste including recyclable materials:~~
- ~~3. Removing the contents of any container used for disposal of solid waste including recyclable materials:~~
- ~~4. Removing any container used for disposal of solid waste, including recyclable materials, from the location where the container has been placed by the owner of the container or owner's agent or employee:~~
- ~~5. Removing, tampering, or meddling with solid waste, including recyclable materials, set out for collection pursuant to the provisions of this chapter 6.16 on private property or on any sidewalk, street, or public right-of-way:~~

~~C.—Enforcement:~~

- ~~1. It is unlawful for any person to violate any provision or fail to comply with any requirements of this section. In addition to other remedies provided by law, any person violating any provision of this section or failing to comply with any of the requirements is deemed guilty of an infraction within the manner provide in Montclair Municipal Code Section 1.12.010:~~

~~2. Each person shall be deemed guilty of a separate offense for each and every day, or any portion thereof, during which any violation of or failure to comply with any of the provisions of this section is committed, continued, or permitted.~~

~~D. Penalties. Each infraction is punishable by:~~

~~1. A fine not exceeding \$100 for the first violation.~~

~~2. A fine not exceeding \$200 for the second violation within one year.~~

~~2. A fine not exceeding \$500 for each additional violation within one year.~~

C. Penalties. Any person who violates any provision of this section shall be guilty of a misdemeanor or an infraction, at the discretion of the City Manager, as defined by and punishable in the manners provided for in Section 1.12.010 of this Code.

SECTION V. Subsection B of Section 1.12.010 is amended to include recovery of Attorney's Fees to the description of Penalties as follows:

1.12.010 - Penalties.

B. Penalties.

4. Attorney Fees. In addition to any civil and criminal penalties as provided by the provisions of this section or otherwise, the City may recover reasonable attorneys' fees and court costs other such expenses of litigation and/or prosecution as it may occur by appropriate suit at law against a person, business, or entity found to have violated any of the provisions of this Code.

SECTION VI. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional.

SECTION VII. Effective Date.

This Ordinance shall be in full force and effect thirty (30) days after passage.

SECTION VIII. Posting.

The City Clerk shall certify to the passage of this Ordinance and cause the same to be posted pursuant to Government Code Section 36933.

APPROVED AND ADOPTED this XX day of XX, 2019.

Mayor

ATTEST:

City Clerk

I, Andrea M. Phillips, City Clerk of the City of Montclair, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 19-985 of said City, which was introduced at a regular meeting of the City Council held on the XX day of XX, 2019, and finally passed not less than five (5) days thereafter on the XX day of XX, 2019, by the following vote, to-wit:

AYES: XX
NOES: XX
ABSTAIN: XX
ABSENT: XX

Andrea M. Phillips
City Clerk

DRAFT



AGENDA REPORT

DATE: MAY 20, 2019

FILE I.D.: PDT362

SECTION: ADMIN. REPORTS

DEPT.: POLICE

ITEM NO.: 10

PREPARER: B. KUMANSKI

SUBJECT: CONSIDER AUTHORIZING A \$59,113 APPROPRIATION FROM THE FEDERAL ASSET FORFEITURE FUND FOR THE PURCHASE OF AN UPDATED VENTILATION SYSTEM CONTROLLER AND REPLACEMENT TARGET CARRIERS AND CONTROL SYSTEM FOR THE POLICE DEPARTMENT'S FIREARMS RANGE

REASON FOR CONSIDERATION: The Firearms Range located at the Police Department has been in operation since the facility was constructed in 2008. The current target carriers, installed by Action Target, have become obsolete and parts are no longer available for service. All five of the Range's carrier units have one or more malfunctions in need of repair, and are unserviceable due to the unavailability of parts. The range's ventilation system, originally installed by Carey's Heating and Air Conditioning, is also obsolete and the controller is incompatible with the current version of the Windows Operating System. The system relies on communication with Carey's for remote monitoring and troubleshooting to ensure the Range's atmosphere is safe for use. Updating the controller will allow for this continued remote support. The City Council is requested to consider authorizing the necessary funds for these updates.

BACKGROUND: When the Police Department building was completed in 2008, the Range's ventilation system was installed by Carey's Heating and Air Conditioning, and the target carrier and Mancom (later acquired by Action Target) controller was installed by Action Target. For several years, the Range has operated numerous times per month, being used by the Montclair Police Department, as well as by allied agencies contracted to use the Range, such as CHP Rancho Cucamonga Division, CHP Inland Division, and Claremont Police Department. During this time, the system was serviced by Carey's Heating and Air Conditioning, which provides annual re-certification and maintenance, and by Action Target, which supplies the parts to maintain and repair the five target carriers.

The Firearms Range is a hostile environment and has taken its toll on these critical and needed components. In addition to routine damage suffered by the numerous shooters, the target carrier system has suffered failures due to water leaks through the ventilation system which shorted out two units. One was used to repair the other, and was subsequently shorted out again when the roof leaked a second time. In addition to the water-shorted electronics, bullet strikes to the carriers, which rely on pressure contacts for both power and control signal have caused additional failures. Ammunition is made of conductive metals and pulverize or deform upon impact, causing metallic pieces to be thrown about the target area, which on occasion can strike or short out on critical components, despite shielding. Until recently, parts were available to repair the carriers; however, the carriers have become obsolete and are no longer supported by Action Target.

As a result of over ten years of operation under these conditions, all five of the carriers have suffered from one or more malfunctions which are no longer serviceable and a replacement system is needed.

Staff reviewed the original target carrier setup, which is typical of a public shooting range where shooters remain static toward the rear of the range, usually at a fixed shooting station, and the targets move on a target carrier from the shooter out to the desired distance and back to the shooter on a carrier track. This style carrier is desirable for public ranges where control of the shooters on a static line is desired and no one is allowed onto the open area of the Range. However, most law enforcement courses of fire involve tactical movements, reloading, and shooting from varied positions, often within the open area of the range with the targets at a static location at the backstop. Because of this, the ability for the target to move back to the rear of the Range is inconsequential. Static turning targets are much more robust than moving style, and the motors, electronics, and control systems are able to be tucked behind the Range's ballistic baffles, instead of being exposed on a moving carrier. The targets would continue to have the same "shoot/don't shoot" ability of a turning target, but would be resistant to the maintenance issues we experienced with the current system. Based on our current usage and needs, staff determined static turning targets would satisfy the Department's training needs, while at the same time provide for cost savings over the mobile target carrier style system in initial cost and continued maintenance.

Action Target was involved in the original design and installation of our target carrier system and is intimately knowledgeable of our system, its setup, functionality, and existing structure for future upgrades. An Action Target system would utilize the same mounting points, reuse existing wiring where possible, and have a familiar controller setup and use, easing the transition for the Department's Firearms Instructors and contract agencies. Action Target was consulted and provided input and recommendations based upon the Department's needs and determined a static turning target carrier system could be retrofitted into the existing mounting tracks at the ballistic trap with no difficulty. They provided a quote of \$49,650, which includes installation labor, tax, five electric fixed lateral turning targets, electronic actuators, turning for "shoot/no shoot" training scenarios, and a new, fixed master control screen in the existing location, as well as an additional mobile tablet-based control for instructors on the firing line—a valuable upgrade from the existing system. Based upon Action Target's familiarity with the existing system and structure it has been determined that they are the best choice to upgrade the system and avoid additional costs to remove and refit another system.

In addition to the target carriers, the ventilation system requires constant maintenance, which is scheduled on an annual basis through Carey's Heating and Air Conditioning. This maintenance includes monitoring the health of the ventilation system through the integrated ventilation controller, which monitors filter life and performance, ensuring the system is providing proper negative pressure to ensure the safety of the atmosphere the shooters are breathing, and to give notice and warning of service intervals, anomalies, and errors the system may be experiencing. The existing system is an analog system, which utilizes an analog conversion telephone line for communication. Because this type of connection is so obsolete, communication with it is no longer supported by current computer operating systems and is in need of an upgrade to continue to function in its intended manner. The current annual maintenance and re-certification is scheduled by Carey's Heating and Air Conditioning. As a component of the currently budgeted recertification, Carey's provided a quote to upgrade the ventilation controller with a Johnson Controls FX-80 controller, which is the current generation of the existing

controller for an additional \$9,128—and when including sales tax of \$335, the total controller price is \$9,463. Scheduling this upgrade during the annual re-certification saves approximately \$1,000 in travel costs, as Carey's Heating and Air Conditioning is located out-of-state, and travel costs are already included in the annual service.

FISCAL IMPACT: If authorized by the City Council, funding for the purchase of an updated ventilation system controller and replacement target carriers and control system for the Department's Firearms Range would result in an expenditure of \$59,113 from Federal Asset Forfeiture Fund 1144. There would be no financial impact to the City's General Fund related to this purchase.

RECOMMENDATION: Staff recommends the City Council authorize a \$59,113 appropriation from the Federal Asset Forfeiture Fund for the purchase of an updated ventilation system controller and replacement target carriers and control system for the Police Department's Firearms Range



AGENDA REPORT

DATE: MAY 20, 2019

FILE I.D.: PDT362

SECTION: AGREEMENTS

DEPT.: POLICE

ITEM NO.: 1

PREPARER: M. BUTLER

SUBJECT: CONSIDER AUTHORIZING THE RECEIPT OF \$17,586 FROM THE FY2017 HOMELAND SECURITY GRANT PROGRAM UNDER AGREEMENT NO. 19-35 WITH THE SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT

CONSIDER AUTHORIZING A \$2,000 APPROPRIATION FROM THE PUBLIC SAFETY GRANT FUND TO PURCHASE 16 FLAT-SCREEN TV MONITORS AND STANDS FOR THE COMMUNICATIONS CENTER

REASON FOR CONSIDERATION: The City Council is requested to consider authorizing the receipt of \$17,586 from the FY2017 Homeland Security Grant Program under Agreement No. 19-35 with the San Bernardino County Fire Protection District (SBCFPD), and to authorize a \$2,000 appropriation from the Public Safety Grant Fund to purchase 16 flat-screen TV monitors and stands for the Communications Center. The Public Safety Grant Fund would be fully reimbursed by the FY2017 HSGP.

A copy of Agreement No. 19-35 is attached for the City Council's review and consideration.

BACKGROUND: The HSGP is designed to assist organizations, government agencies, and communities in implementing programs and measures to prevent, protect against, mitigate, respond to, and recover from threats, hazards, acts of terrorism, and other catastrophic events that pose a significant risk to local communities and the nation.

The State of California Governor's Office of Emergency Services established that the subgrantee of the HSGP for San Bernardino County is the SBCFPD. In its capacity as subgrantee, SBCFPD is tasked with applying for Department of Homeland Security Grant Program funds on behalf of regional jurisdictions. Through this process, the Montclair Police Department would receive \$17,586. After procurement is completed, a request for reimbursement would be submitted to the SBCFPD.

Staff proposes to use a portion of FY2017 HSGP funds to purchase 16 flat-screen TV monitors to be used in the Department's Communications Center—the nerve center of the Department. Four TV monitors would be placed at the four dispatch consoles via quad-monitor desk stands. Dispatchers are the first line of communication between first responders and the community when law enforcement services are required—and, in many instances, the lifeline for Officers in the field through the sharing of information that is crucial to resolution of a problem or the Officer's safety. In modern policing, it is critical that information is received by auditory and visual means to fully understand the complexity of events as they unfold and to coordinate an effective response.

TV screens in the Communications Center will enable Dispatchers to actively monitor video feeds from cameras strategically located throughout the City for suspicious behavior of individuals or groups; to provide first responders with information on real or perceived threats; to help first responders assess an environment before entering a dangerous situation or location; and to protect the public, key facilities, and critical infrastructure by alerting Officers to criminal or suspicious activity. Video monitoring in the Communications Center is an efficient and cost-effective tool to prevent crime and combat threats against public safety by providing Dispatchers with real-time situational awareness of events and potential threats as, or before, they unfold. While video cameras and monitoring may not always prevent an attack, their value is indisputable in the subsequent investigation. Staff's ultimate goal is to create an expandable video monitoring system that is fully integrated into the Department's existing network, allowing Police Dispatch personnel the capability to monitor video feeds from additional cameras strategically placed throughout the City.

Staff researched several different vendors and proposes to purchase the monitors from Amazon and the stands from Monoprice. At a cost of \$1,642, the monitors from Amazon are HP 20-inch LED LCD monitors, which will fit the space available in the Communications Center. The Information Technology Division recommends the brand HP for consistency in maintaining and supporting current hardware, and Amazon was chosen for having the lowest bid. Monoprice had the lowest bid for the stands at \$367, which are specific to those monitors and fit in the existing work space.

The Department's request to procure monitors and stands has already been approved by the Homeland Security Grants Unit for the FY2017 HSGP, including Environmental and Historic Preservation compliance, which is required for the purchase of equipment that would require installation on or in a building or structure for FEMA preparedness grant-funded projects.

FISCAL IMPACT: If approved by the City Council, the purchase of 16 flat-screen TV monitors and stands would result in an appropriation from the Public Safety Grant Fund 1163 in the amount of \$2,000. The City would receive full reimbursement from the FY2017 HSGP.

RECOMMENDATION: Staff recommends the City Council take the following actions:

1. Authorize the receipt of \$17,586 from the FY2017 Homeland Security Grant Program under Agreement No. 19-35 with the San Bernardino County Fire Protection District.
2. Authorize a \$2,000 appropriation from the Public Safety Grant Fund to purchase 16 flat-screen TV monitors and stands for the Communications Center.



MONTCLAIR



BUILD THE GOLD LINE TO MONTCLAIR

January 9, 2018

San Bernardino County Fire, OES
Kalina Cox
1743 Miro Way
Rialto, CA 92376

Subject: FY2017 HOMELAND SECURITY GRANT PROGRAM

Grants Unit,

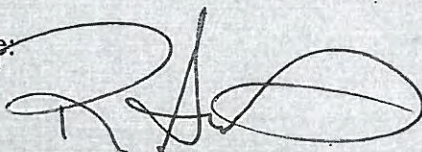
Please find attached the FY2017 Homeland Security Grant Program (HSGP) package and the following documentation for your review:

- X Signed Subrecipient Agreement
- X Certification Letter
- X Application Workbook Certification
- X Grants Mgmt Assessment Form - subrecipients
- X Proof of SAM Registration

I certify that the necessary documentation for my project is attached to this package.

Print Name: Robert Avels
Print Title: Chief of Police

Phone No.: (909) 448-3602
E-mail: ravel@cityofmontclair.org
Address:
Fax No.: (909) 626-4892

Signature: 

CITY OF MONTCLAIR Police Department
4870 Arrow Highway, P.O. Box 2308, Montclair, CA 91763 (909) 448-3600 FAX (909) 621-4413

Mayor Paul M. Eaton • Mayor Pro Tem Carolyn Raft • Council Members: J. John Dutrey, Bill Ruh, Trisha Martinez • City Manager Edward C. Starr

San Bernardino County Fire Protection District
FY2017 Homeland Security Grant Program
CFDA 97.067

Subrecipient Agreement
Grant No. 2017-0083

Name of Applicant: Montclair Police Department
Address: 4870 Arrow Highway
City: Montclair State: Ca Zip Code: 91763
Telephone Number: 909-448-3600 Fax Number: 909-626-4892
E-Mail Address: ravels@cityofmontclair.org

The Applicant becomes the Subrecipient after obtaining award authorization

As the duly authorized representative of the Applicant, I hereby certify that the Applicant has the legal authority to apply for federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay any non-federal share of project cost) to ensure proper planning, management and completion of the project described in this application, within prescribed timelines.

I further acknowledge that the Applicant is responsible for reviewing and adhering to all requirements listed below. By accepting this award, I agree that the funds and allocations under this grant will be in accordance with the requirements listed below:

- a) Applicable Federal Regulations (see below);
- b) Federal Program Notice of Funding Opportunity (NOFO);
- c) California Supplement to the NOFO; and
- d) Federal and State Grant Program Guidelines

Federal Regulations

Government cost principles, uniform administrative requirements and audit requirements for federal grant programs are set forth in Title 2, Part 200 of the Code of Federal Regulations (CFR) and updates are issued by the Office of Management and Budget (OMB) and can be found at <http://www.whitehouse.gov/omb/>.

Significant state and federal grant award requirements (some of which appear in the documents listed above) are set forth below. The Applicant hereby agrees to comply with the following:

1. Proof of Authority

The Applicant will obtain written authorization from the city council, governing board or authorized body in support of this project. The written authorization must specify that the Application and the city council, governing board, or authorized body agree.

- a) Any liability arising out of the performance of this agreement shall be the responsibility of the Applicant and the city council, governing board, or authorized body.
- b) Grant funds shall not be used to supplant expenditures controlled by the city council, governing board or authorized body.
- c) The official executing this agreement is, in fact authorized to do so.

This Proof of Authority must be maintained on file and readily available upon request

2. All Applicants must understand that in the event FEMA determines that changes are necessary to the award document after an award has been made, including changes to period of performance or terms and conditions, Subrecipients will be notified of the changes in writing. Once notification has been made, any

subsequent request for funds will indicate Subrecipient acceptance of the changes to the award. Please call the San Bernardino San Bernardino County Fire Protection District (SBCFPD), Grants Administration Unit at (909) 387-5931. Or via e-mail to: hsgp@oes.sbcounty.gov.

3. **All Subrecipients will assure that grant funds are used for allowable, fair, and reasonable costs only and will not be transferred between grant programs (for example: State Homeland Security Program and Urban Area Security Initiative) or fiscal years.**
 4. All Subrecipients will comply with any cost sharing commitments included in the FY2017 Investment Justifications submitted to DHS/FEMA/Cal OES, where applicable.
 5. All Subrecipients will establish a proper accounting system in accordance with generally accepted accounting standards and awarding agency directives.
 6. All Subrecipients will give the SBCFPD, Grants Administration Unit, Cal OES and DHS/FEMA, through any authorized representatives, access to, and the right to examine, all paper or electronic records, books, and documents related to the FY17 HSGP grant award, and will permit access to its facilities, personnel and other individuals and information as may be necessary, as required by SBCFPD, Cal OES and DHS/FEMA, through any authorized representative, with regard to examination of grant related records, accounts, documents, information and staff.
- 7. Access to Records**
- a) In accordance with 2 CFR §200.336, the Subrecipient will give the awarding agency, the Comptroller General of the United States and, if appropriate, the state, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award. The Subrecipient will require any Subrecipients, contractors, successors, transferees and assignees to acknowledge and agree to comply with this provisions governing DHS access to records, accounts, documents, information, facilities, and staff.
 - b) Subrecipients must give SBCFPD, DHS and Cal OES access to and the right to examine and copy records, accounts, and other documents and sources of information related to the grant and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by SBCFPD, DHS and Cal OES program guidance, requirements, and applicable laws.
 - c) Subrecipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance, and Subrecipients must submit timely, complete, and accurate reports to the appropriate SBCFPD, Grants Administration Unit and maintain appropriate backup documentation to support the reports. This includes but is not limited to the Semi-Annual Performance and the Status Reports. Failure to do so may result in loss of funding or future funding.
 - d) If, during the past three years or in the event, the Subrecipient has been accused by any court/ administrative agency/etc. of discrimination on the grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status, the recipient must provide a list of all such proceedings, pending or completed, including outcome and copies of settlement agreements to the SBCFPD, Grants Administration Unit to be sent to Cal OES/DHS Office of Civil Rights and Civil Liberties.
 - e) The United States has the right to seek judicial enforcement of these obligations.
8. All Subrecipients will comply with any other special reporting, assessments, national evaluation efforts, or information or data collection requests, including, but not limited to, the provision of any information required for the assessment or evaluation of any activities within this agreement, or detailed in the program guidance.
 9. The Subrecipient agrees that funds utilized to establish or enhance State and Local fusion centers must support the development of a statewide fusion process that corresponds with the Global Justice/Homeland Security Advisory Council (HSAC) Fusion Center Guidelines, follow the Federal and State approved privacy policies, and achieve (at a minimum) the baseline level of capability as defined by the Fusion Capability Planning Tool.
 10. All Subrecipients understand that a hold is in place on Fusion Center activities and the Subrecipient is prohibited from obligating, expending, or drawing down HSGP – UASI funds in support of their State and/or

Major Urban Area Fusion Center. Cal OES will notify the SBCFPD, Protection District in writing when DHS/FEMA has lifted the hold.

11. All Subrecipients will initiate and complete the work within the applicable timeframe (Subgrantee performance period), in accordance with grant award terms and requirements, after receipt of approval from SBCFPD, and will maintain procedures to minimize the amount of time elapsing between the award of funds and the disbursement of funds.
12. All Subrecipients will provide timely, completed, accurate and maintain appropriate support documentation to support the reports, and other such information as may be required by the awarding agency.
13. All Subrecipients will provide timely notifications to SBCFPD, of any developments that have a significant impact on award-supported activities, including changes to key program staff.

14. Federal Debt Status

All Subrecipients are required to be non-delinquent in their repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowance, and benefits overpayments. See OMB Circular A-129.

15. All Subrecipients will comply with the requirements of 31 U.S.C. § 3729, which set forth that no Subgrantee, recipient or Subrecipient of federal payments, shall submit a false claim for payment, reimbursement, or advance. Administrative remedies may be found in 38 U.S.C. §§ 3801-3812, addressing false claims and statements made.
16. All Subrecipients will comply with all applicable provisions of DHS/FEMA's regulations, including Title 44 of the Code of Federal Regulations, Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
17. All Subrecipients will comply with the Office of Management and Budget (OMB) Super Circular 2 C.F.R. part 200 which has consolidated the following:
 - Grant Management: Circular A-102, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (also known as the "A-102 Common Rule"), which are also located found within DHS regulations at Title 44, Code of Federal Regulations (CFR) Part 13, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments"; will comply with OMB Circular A-110, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations, relocated to 2 CFR Part 215.
18. All Subrecipients will comply with the financial and administrative requirements set forth in the current edition of the DHS Financial Management Guide:
 - Costing Principles: OMB Circular A-21, Cost Principles for Educational Institutions, relocated to 2 CFR Part 220; OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments, relocated to 2 CFR Part 225; OMB Circular A-122, Cost Principles for Non-Profit Organizations, relocated to 2 CFR Part 230.
 - Audits: OMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations, and sections of A-50 related to audits performed under Subpart F- Audit requirements as applicable.
 - For Subrecipients expending \$750,000 or more in federal grant funds annually, the Subrecipient will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and Title 2 of the Code of Federal Regulations, Part 200, Subpart F Audit Requirements.
 - False Claims for Payment: The Subrecipient will comply with 31 U.S.C §3729 which sets forth that no subgrantee, recipient or subrecipient shall submit a false claim for payment, reimbursement or advance.

19. All Subrecipients will comply with all provisions of the Federal Acquisition Regulations, including but not limited to Title 48 CFR Part 31.2, part 31.2 Contract Cost Principles and Procedures, Contracts with Commercial Organizations.
20. All Subrecipients will comply with provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

21. Conflict of Interest

The Subrecipients will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

22. All Subrecipients understand and agree that Federal funds will not be used, directly or indirectly, to support the enactment, repeal, modification or adoption of any law, regulation, or policy, at any level of government, without the express prior written approval from DHS/FEMA and Cal OES.

23. Lobbying and Political Activities

As required by Section 1352, Title 31 of the U.S. Code (U.S.C.), for persons entering into a contract, grant, loan or cooperative agreement from an agency or requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan, the Application certifies that:

- a) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with awarding any Federal Contract, the making of any federal grant, the making federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- b) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Subrecipients shall certify and disclose accordingly.

The Subrecipient will also comply with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and §§7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with federal funds.

Finally, the Subrecipient agrees that federal funds will not be used, directly or indirectly, to support the enactment, repeal, modification or adoption of any law, regulation or policy without the express written approval from California Governor's Office of Emergency Services (Cal OES) or the federal awarding agency.

24. All Subrecipients agree that, to the extent contractors or subcontractors are utilized, will use small, minority-owned, women-owned, or disadvantaged businesses, to the extent practicable.
25. All Subrecipients will comply with Title 2 of the Code of Federal Regulations Part 225, Appendix A, paragraph (C)(3)(c), which provides that any cost allocable to a particular Federal award or cost objective under the principles provided for in this authority **may not be charged to other Federal awards** to overcome fund deficiencies.

26. Non-supplanting Requirements

Subrecipients who receive awards made under programs that prohibit supplanting by law must ensure that federal funds do not replace (supplant funds that have been budgeted for the same purpose through non-federal sources.

27. Subrecipients will comply, if applicable, with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. § 4801 et seq.), which prohibits the use of lead based paint in construction or rehabilitation of structures.
28. All Subrecipients will comply with all federal and state laws and regulations relating to civil rights protections and nondiscrimination. These include, but are not limited to:
- a) Title VI of the Civil Rights Act of 1964, Public Law 88-352, (42 U.S.C. § 2000d et seq.), codified at 6 CFR Part 21 and 44 CFR Part 7, which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
 - b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. § 1681 et seq.), which prohibits discrimination on the basis of gender in educational programs and activities. These regulations are codified at 6 CFR Part 17 and 44 CFR Part 19.
 - c) The Americans with Disabilities Act, as amended, which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. § 12101 et seq.).
 - d) The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), which prohibits discrimination on the basis of age in any program or activity receiving federal financial assistance.
 - e) The Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse.
 - f) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism.
 - g) Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. § 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records.
 - h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq., as implemented by 24 CFR Part 100), as amended, relating to nondiscrimination in the sale, rental and financing of housing.
 - i) Title 44 of the Code of Federal Regulations (CFR) Parts 7, 16, and 19 relating to nondiscrimination.
 - j) The requirements of any other nondiscrimination provisions in the specific statute(s) under which the application for Federal assistance is being made and any other applicable statutes.
 - k) The requirements of Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, as amended, which provides that no otherwise qualified individual with a disability in the United States will, solely by reason of the disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. These requirements pertain to the provision of benefits or services as well as to employment.
 - l) Will, in the event that a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds or race, color, religion, national origin, gender, or disability against a recipient of funds, the recipient will forward a copy of the finding to the Office of Civil Rights, Office of Justice Programs.
 - m) Will provide an Equal Employment Opportunity Plan, if applicable, to the Department of Justice Office of Civil Rights within 60 days of grant award.
 - n) Will comply, and assure the compliance of all its Subgrantees and contractors, with the nondiscrimination requirements and all other provisions of the current edition of the Office of Justice Programs Financial and Administrative Guide for Grants, M7100.1.
 - o) **Reporting Accusation and Findings of Discrimination**
If during the past three years the recipient has been accused of discrimination on any basis the recipient must provide a list of all such proceedings, pending or completed, including outcome and copies of settlement agreements to the DHS financial assistance office and the DHS Office of Civil Rights and Civil Liberties (CRCL) by e-mail at crcl@hq.dhs.gov or by mail at the U.S. Department of

Homeland Security Office for Civil Rights and Civil Liberties Building 410, Mail Stop #0190
Washington, D.C. 20528.

In the event any court or administrative agency makes a finding of discrimination against the recipient, or the recipient settle a case or matter alleging such discrimination, recipients must forward a copy of the complaint and findings to the DHS Component financial assistance office and the CRCL office by email or mail at the addresses listed above.

29. Property-Related

If applicable to the type of project funded by this federal award, the Subrecipient will:

- a) Comply with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interest in real property acquires for project purposes regardless of Federal participation in purchase.
 - b) Comply with flood insurance requirements of Section 102(a) of the Flood Disaster Protection Act of 1976 (P.L. 93-234) which requires Subrecipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
 - c) Assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966 as amended (16 U.S.C § 470), Executive Order 11593 (identification and protection of historic properties), And the Archaeological and Historic Preservation Act of 1974 (16 U.S.C § 469a-1 et seq.).
 - d) Comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. § 4831 and 24 CFR Part 35) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
30. All Subrecipients will comply with all provisions of DHS/FEMA's regulation 44 CFR Part 10, Environmental Considerations.
31. All Subrecipients will comply with all applicable Federal, State, and Local environmental and historical preservation (EHP) requirements. Failure to meet Federal, State, and Local EHP requirements and obtain applicable permits may jeopardize Federal funding. Agrees not to undertake any project having the potential to impact EHP resources without the prior written approval of DHS/FEMA and Cal OES, including, but not limited to, ground disturbance, construction, modification to any structure, physical security enhancements, communications towers, any structure over 50 years old, and purchase and/or use of any sonar equipment. The subgrantee must comply with all conditions and restrictions placed on the project as a result of the EHP review. Any construction-related activities initiated without the necessary EHP review and approval will result in a noncompliance finding, and may not be eligible for reimbursement with DHS/FEMA and Cal OES funding. Any change to the scope of work will require re-evaluation of compliance with the EHP. If ground-disturbing activities occur during the project implementation, the subgrantee must ensure monitoring of the disturbance. If any potential archeological resources are discovered, the subgrantee will immediately cease activity in that area and notify DHS/FEMA/ and Cal OES and the appropriate State Historic Preservation Office.
32. Any construction activities that have been initiated prior to the full environmental and historic preservation review could result in a non-compliance finding. Subgrantees must complete the DHS/FEMA EHP Screening Form (OMB Number 1660-0115/FEMA Form 024-0-01) and submit it, with all supporting documentation, to SBCFPD, Attention: Grants Administration Unit for reviewing. The SBCFPD will then submit to the Cal OES program representative to be processed by the DHS/FEMA GPD EHP.
33. Subrecipients should submit the FEMA EHP Screening Form for each project as soon as possible to the SBCFPD, Grants Administration Unit before starting their project. The Screening Form for these types of projects is available at: www.fema.gov/doc/government/grant/bulletins/info329_final_screening_memo.doc.
34. All Subrecipients will ensure that the facilities under its ownership, lease or supervision, which shall be utilized in the accomplishment of this project, are not on the Environmental Protection Agency's (EPAs) List of Violating Facilities, and will notify Cal OES and the DHS/FEMA of the receipt of any communication from the

Director of the EPA Office of Federal Activities indicating if a facility to be used in the project is under consideration for listing by the EPA.

35. All Subrecipients will provide any information requested by DHS/FEMA and Cal OES to ensure compliance with applicable laws including, but not limited to, the following:
- a) Institution of environmental quality control measures under the Archaeological and Historic Preservation Act, Endangered Species Act, and Executive Orders on Floodplains (11988), and Environmental Justice (EO12898) and Environmental Quality (EO11514).
 - b) Notification of violating facilities pursuant to EO 11738.
 - c) Assurance of project consistency with the approved state management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. § 1451 et seq.).
 - d) Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523).
 - e) California Environmental Quality Act (CEQA), California Public Resources Code Sections 21080-21098, and California Code of Regulations, Title 14, Chapter 3 §§ 15000-15007.
 - f) Wild and Scenic Rivers Act of 1968 (16 U.S.C. § 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
 - g) Applicable provisions of the Coastal Barrier Resources Act (P.L. 97-348) dated October 19, 1982 (16 USC § 3501 et seq.), which prohibits the expenditure of most new Federal funds within the units of the Coastal Barrier Resources System.

36. All Subrecipients will comply with Standardized Emergency Management System (SEMS) requirements as stated in the California Emergency Services Act, Government Code, Chapter 7 of Division 1 of Title 2, § 8607.1(e) and CCR Title 19, §§ 2445, 2446, 2447, and 2448.

37. Best Practices for Collection and Use of Personally Identifiable Information (PII)

DHS defines personally identifiable information (PII) as any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual. All recipients who collect PII are required to have a publically-available privacy policy that describes standards on the usage and maintenance of PII they collect. Award recipients may also find as a useful resource the DHS Privacy Impact Assessments: Privacy template respectively.

38. The Subrecipient agree that all DHS/FEMA-funded project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, and approvals are obtained.

39. Hotel and Motel Fire Safety Act of 1990

In accordance with Section 6 of the Hotel and Motel Fire Safety Act of 1990, all recipients must ensure that all conference, meeting, convention, or training space funded in whole or in part with federal funds complies with the fire prevention and control guidelines of the Federal Fire Prevention and Control Act of 1974, as amended, 15 U.S.C. § 2225a.

40. Fly America Act of 1974

All Subrecipients must comply with Preference for U.S. Flag Air Carriers: (air carriers holding certificates under 49 U.S.C. § 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. § 40118) and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to the Comptroller General Decision B-138942.

41. All Subrecipients agree that all publications created or published with funding under this grant shall prominently contain the following statement: ***"This document was prepared under a grant from FEMA's Grant Programs Directorate, U.S. Department of Homeland Security. Points of view or opinions expressed in this document are those of the authors and do not necessarily represent the official position or policies of FEMA's Grant Programs Directorate or the U.S. Department of Homeland Security."*** The sub recipients and recipients also agree that, when practicable, any equipment purchased

with grant funding shall be prominently marked as follows: ***"Purchased with funds provided by the U.S. Department of Homeland Security."***

42. Copyright

All Subrecipients must affix the applicable copyright notices of 17 U.S.C §§ 401 or 402 and acknowledgement of Government sponsorship (including award number) to any work first produced under federal financial assistance awards, unless the work includes any information that is otherwise controlled by the Government (e.g. classified information or other information subject to national security or export control laws or regulations).

All Subrecipients must acknowledge that DHS/FEMA reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use, for Federal government purposes: a) the copyright in any work developed under an award or subaward; and b) any rights of copyright to which a recipient or Subrecipient purchases ownership with Federal support. The recipient and Subrecipients must agree to consult with DHS/FEMA and Cal OES regarding the allocation of any patent rights that arise from, or are purchased with, this funding.

43. Patents and Intellectual Property Rights

Unless otherwise provided by law, recipients are subject to the Bayh-Dole Act, Pub. L. No. 96-517, as amended, and codified in 35 U.S.C. § 200 et seq. All recipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from financial assistance awards located at 37 C.F.R. Part 401 and the standard patent rights clause located at 37 C.F.R. § 401.14

44. Subrecipients receiving Federal financial assistance to be used to perform eligible work approved in the submitted application for Federal assistance and after the receipt of Federal financial assistance, through the State of California, agree to the following:

- a) Promptly return to the State of California all funds received which exceed the approved, actual expenditures as determined by the Federal or State government.
- b) In the event the approved amount of the grant is reduced, the reimbursement applicable to the amount of the reduction will be promptly refunded to the State of California.
- c) Property and equipment purchased under the HSGP reverts to Cal OES if the grant funds are deobligated or disallowed and not promptly repaid.
- d) HSGP funds used for the improvement of real property must be promptly repaid following deobligation or disallowment of costs, and Cal OES reserves the right to place a lien on the property for the amount owed.

Therefore, if any procurement with the HSGP grant funds is determined to be ineligible or inappropriate, the money must be returned to Cal OES. If a procurement was done incorrectly or if a piece of equipment purchased was not on the AEL list, then that money must be returned because the item is not allowed.

45. SAFECOM

All Subrecipients who receive awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

46. All Subrecipients will comply, if applicable, with the Laboratory Animal Welfare Act of 1966 (P. L. 89-544, as amended, 7 U.S.C. § 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

47. All Subrecipients will comply with the minimum wage and maximum hour provisions of the Federal Fair Labor Standards Act (29 U.S.C. § 201), as they apply to employees of institutions of higher education, hospitals, and other non-profit organizations.

48. The Subrecipient agrees that "Classified national security information," as defined in Executive Order (EO) 12958, as amended or updated via later executive order(s), means information that has been determined pursuant to EO 12958 to require protection against unauthorized disclosure and is marked to indicate its classified status when in documentary form. No funding under this award shall be used to support a contract, subaward, or other agreement for goods or services that will include access to classified national security information if the award recipient or Subrecipient has not been approved for and granted access to such information by appropriate authorities.
49. The Subrecipient agrees that where an award Subrecipient has been approved for and has access to classified national security information, no funding under this award shall be used to support a contract, subaward, or other agreement for goods or services that will include access to classified national security information by the contractor, Subrecipient, or other entity without prior written approval from the DHS Office of Security, Industrial Security Program Branch (ISPB), or, an appropriate official within the Federal department or agency with whom the classified effort will be performed. Such contracts, subawards, or other agreements shall be processed and administered in accordance with the DHS "Standard Operating Procedures, Classified Contracting by States and Local Entities," dated July 7, 2008; EOs 12829, 12958, 12968, and other applicable executive orders; the National Industrial Security Program Operating Manual (NISPOM); and other applicable implementing directives or instructions. Security requirement documents may be located at: <http://www.dhs.gov/xopnbiz/grants/index.shtml>
50. Immediately upon determination by the award recipient that used funding under this award may be used to support a contract, subaward, or other agreement involving access to classified national security information pursuant to paragraph 47, and prior to execution of any actions to facilitate the acquisition of such a contract, subaward, or other agreement. For additional information the Subrecipient will need to contact SBCFPD and obtain approval and processing instructions.
51. All Subrecipients will comply with the requirements regarding Data Universal Numbering System (DUNS) numbers. If recipients are authorized to make subawards under this award, they must first notify potential Subrecipients that no entity may receive or make a subaward to any entity unless the entity has provided a DUNS number.

For purposes of this award term, the following definitions will apply:

- a) "Data Universal Numbering System (DUNS)" number means the nine digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866-705-5711) or the Internet, currently at <http://fedgov.dnb.com/webform>.
 - b) "Entity", as it is used in this award term, means all of the following, as defined at 2 CFR part 25, subpart C, as a Governmental organization, which is a State, local government, or Indian Tribe; or a foreign public entity; or a domestic or foreign nonprofit organization; or a domestic or foreign for-profit organization; or a Federal agency, but only as a Subrecipient under an award or subaward to a non-Federal entity.
 - c) "Subaward" means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient, award to an eligible Subrecipient. It does not include your procurement of property and services needed to carry out the project or program (for further explanation, see section 210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations") and may be provided through any legal agreement, including an agreement that you consider a contract.
 - d) "Subrecipient" means an entity that receives a subaward from you under this award, and is accountable to you for the use of the Federal funds provided by the subaward.
52. All Subrecipients will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. § 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. § 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for Federally-assisted construction Sub-agreements.
 53. The Subrecipient agrees that equipment acquired or obtained with grant funds:

- a) Will be made available pursuant to applicable terms of the California Disaster and Civil Defense Master Mutual Aid Agreement, in consultation with representatives of the various fire, emergency medical, hazardous materials response services, and law enforcement agencies within the jurisdiction of the Subrecipient, and deployed with personnel trained in the use of such equipment in a manner consistent with the California Law Enforcement Mutual Aid Plan or the California Fire Services and Rescue Mutual Aid Plan.
- b) Is consistent with needs as identified in the State Homeland Security Strategy and will be deployed in conformance with that Strategy.

54. All Subrecipients will comply with Homeland Security Presidential Directive (HSPD)-5, Management of Domestic Incidents. The adoption of the National Incident Management System (NIMS) is a requirement to receive Federal preparedness assistance, through grants, contracts, and other activities. The NIMS provides a consistent nationwide template to enable all levels of government, tribal nations, nongovernmental organizations, and private sector partners to work together to prevent, protect against, respond to, recover from, and mitigate the effects of incidents, regardless of cause, size, location, or complexity.

55. All Subrecipients will comply with OMB Standard Form 424B Assurances – Non construction Programs, whereby the awarding agency may require Subgrantees and Subrecipients to certify to additional assurances.

56. Debarment and Suspension

As required by Executive Orders 12549 and 12689, and 2 CFR §200.212 and codified in 2 CFR Part 180, Debarment and Suspension, The Subrecipient will provide protection against waste, fraud, and abuse by debarment or suspending those persons deemed irresponsible in their dealing with the federal government. The Subrecipient certifies that it and its principals:

- a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
- b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of record, making false statements, or receiving stolen property;
- c) Are not presently indicted for or otherwise criminally or civilly charged by governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (2)(b) of this certification; and
- d) Have not within the three-year period preceding this application had one or more public transaction (federal, state, or local) terminated for cause or default.

Where the Subrecipient is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

57. All Subrecipients will comply with requirements to acknowledge Federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with Federal funds.

58. All Subrecipients will obtain, via SBCFPD, the prior approval from Cal OES on any use of the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

59. Drug-Free Workplace

As required by the Drug-Free Workplace Act of 1988 (41 U.S.C. § 701 et seq.), the Subrecipient certifies that it will maintain a drug-free workplace and a drug-free awareness program as outlined in the Act.

60. Human Trafficking

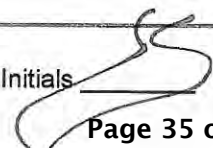
The Subrecipients will comply with the requirement of Section 106(g) of the Trafficking Victims Protection Act of 2000, amended (22 U.S.C. § 7104) which prohibits grant award recipients or a subrecipient from: (1) engaging in trafficking in persons during the period of time that the award is in effect; (2) procuring a commercial sex act during the period of time that the award is in effect; or (3) using forced labor in the performance of the award or subawards under the award.

61. Non-Discrimination and Equal Employment Opportunity

The Subrecipients will comply with all federal statutes relating to non-discrimination. These include, but are not limited to, the following:

- a) Title VI of the Civil Rights Act of 1964 (public Law (P.L. 88-352 and 42 U.S.C. §2000d et. Seq.) which prohibits discrimination on the basis of race, color, or national origin and requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services;
- b) Title IX of the Education Amendments of 1972, (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on basis of sex in any federally funded educational program or activity;
- c) Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. §794), which prohibits discrimination against those disabilities or access and functional needs;
- d) Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability and requires buildings and structures be accessible to those with disabilities and access and functional needs; (42 U.S.C. §§12101-12213);
- e) Age Discrimination Act of 1975, (42 U.S.C §§6101-6107), which prohibits discrimination on the basis of age;
- f) Public Health Service Act of 1912 (42 U.S.C. §290); relating to confidentiality of patient records regarding substance abuse treatment;
- g) Title VII of the Civil Rights Act of 1968 (42 U.S.C §3601 et seq.), relating to nondiscrimination in the sale, rental or financing of housing;
- h) Executive Order 11246, which prohibits federal contractors and federally assisted construction and subcontractors, who do over \$10,000 in government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, sexual orientation, gender identification, or national origin;
- i) Executive Order 11375, which bans discrimination on the basis of race, color, religion, sex, sexual orientation, gender identification, or national origin in hiring and employment in both the United States federal workforce and on the part of government contractors;
- j) California Public Contract Code §10295.3, which prohibits discrimination based on domestic partnerships and those in same sex marriages;
- k) Any other nondiscrimination provisions in the specific statute(s) under which application for federal assistance is being made; and
- l) The requirements of any other nondiscrimination statute(s) which may apply to the application.

In addition to the items listed in a) through n), the Subrecipient will comply with California's Fair Employment and Housing Act (FEHA). FEHA prohibits harassment and discrimination in employment because of ancestry, race, color, religious creed (including dress and grooming practices), sex (which includes pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth, or breastfeeding), gender, gender identity, gender expression, sexual orientation, marital status, nation origin, ancestry, mental and physical disability, genetic information, medical condition, age, pregnancy, denial of medical and family care leave, or pregnancy disability leave (California Government Code §§12940, 12945, 12945.2), military and veteran status, and/or retaliation for protesting illegal discrimination related to one if these categories, or for reporting patient abuse in tax supported institutions.



62. All Subrecipients will comply with the requirements of 42 U.S.C. § 7401 et seq. and Executive Order 11738, which provides for the protection and enhancement of the quality of the nation's air resources to promote public health and welfare and for restoring and maintaining the chemical, physical, and biological integrity of the nation's waters is considered research for other purposes.
63. All Subrecipients will comply with the requirements of the Federal regulations at 45 CFR Part 46 and the requirements in DHS Management Directive 026-04, Protection of Human Subjects, prior to implementing any work with human subjects. The regulations specify additional protections for research involving human fetuses, pregnant women, and neonates (Subpart B); prisoners (Subpart C); and children (Subpart D). The use of autopsy materials is governed by applicable State and local law and is not directly regulated by 45 CFR Part 46.

64. Environmental Standards

The Subrecipients will comply with state and federal environmental standards, which may be prescribed pursuant to the following, as applicable:

- a) California Environmental Quality Act (CEQA) (California Public Resources Code §§ 21000-21177), to include coordination with the city or county planning agency;
- b) CEQA Guidelines (California Code of Regulation, Title 14, Division 6, Chapter 3, §§ 15000-15387);
- c) Federal Clean Water Act (CWA) (33 U.S.C. § 1251 et seq.), which establishes the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters;
- d) Federal Clean Air Act of 1955 (42 U.S.C. § 7401) which regulates air emissions from stationary and mobile sources;
- e) Institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order 12898 on the Environmental Justice Act, and Executive Order 11514 on Environmental Quality;
- f) Notification of Environmental Protection Agency (EPA) violating facilities pursuant to Executive Order 11738;
- g) Protection of wetland pursuant to Executive Order 11990;
- h) Evaluation of flood hazards in floodplains in accordance with Executive Order 11988;
- i) Assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. § 1451 et seq.);
- j) Conformity of Federal actions to State (Clean Air) Implementation Plans under Sections 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.);
- k) Executive Order 11738 instituted to assure that each federal agency empowered to enter into contracts for the procurement of goods, materials, or services and each federal agency empowered to extend federal assistance by way of grant, loan, or contract shall undertake such procurement and assistance activities in a manner that will result in effective enforcement of the Clean Air Act and the Federal Water Pollution Control Act Executive Order 11990 which requires preservation of wetlands;
- l) The Safe Drinking Water Act of 1974, (P.L. 93-523);
- m) The Endangered Species Act of 1973, (P.L. 93-205);
- n) Wild and Scenic Rivers Act of 1968 (16 U.S.C §1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

The Subrecipients shall not the 1) in violation of any order or resolution promulgated by the State Air Resources Board or an air pollution district; 2) subject to cease and desist order pursuant to § 13301 of the California Water Code for violation of waste discharge requirements for prohibitions; or 3) determined to be in violation of federal law relating to air or water pollution.

65. All Subrecipients will comply with the requirements of section 1306(c) of the National Flood Insurance Act, as amended, which provides for benefit payments under the Standard Flood Insurance Policy for demolition or

relocation of a structure insured under the Act that is located along the shore of a lake or other body of water and that is certified by an appropriate State or local land use authority to be subject to imminent collapse or subsidence as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels. These regulations are codified at 44 CFR Part 63.

66. All Subrecipients will comply with the requirements of the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. § 4001 et seq.), which provides that no Federal financial assistance to acquire, modernize, or construct property may be provided in identified flood-prone communities in the United States, unless the community participates in the National Flood Insurance Program and flood insurance is purchased within one year of the identification. The flood insurance purchase requirement applies to both public and private Subrecipients for DHS support. Lists of flood-prone areas that are eligible for flood insurance are published in the Federal Register by FEMA.
67. All Subrecipients will comply with the requirements of Executive Order 11990, which provides that federally-funded construction and improvements minimize the destruction, loss, or degradation of wetlands. The Executive Order provides that, in furtherance of section 101(b)(3) of NEPA (42 U.S.C. § 4331(b)(3)), Federal agencies, to the extent permitted by law, must avoid undertaking or assisting with new construction located in wetlands unless the head of the agency finds that there is no practicable alternative to such construction, and that the proposed action includes all practicable measures to minimize harm to wetlands that may result from such use. In making this finding, the head of the agency may take into account economic, environmental, and other pertinent factors. The public disclosure requirement described above also pertains to early public review of any plans or proposals for new construction in wetlands. This is codified at 44 CFR Part 9.
68. **USA Patriot Act 2001**

All Subrecipients must comply with requirement of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USE PATRIOT Act), which amends 18 U.S.C. § 175-175c.

69. Understands the reporting of subawards and executive compensation rules, including first tier subawards to Cal OES.
- a) Applicability. Unless you are exempt as provided in paragraph d. of this award term, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009,
 - b) Where and when to report: you must report on each obligating action described in the following paragraphs to Cal OES. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2013, the obligation must be reported by no later than December 31, 2013.)
 - c) What to report: You must report the information about each obligating action that the submission instructions posted in Information Bulletin 350, to Cal OES. To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/excomp.htm>. Subgrantees must report Subrecipient executive total compensation to Cal OES by the end of the month following the month during which you make the subaward. Exemptions include: If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report on subawards, and the total compensation of the five most highly compensated executives of any Subrecipient.
 - d) The subrecipient agrees to comply with applicable provisions of the Federal Funding Accountability and Transparency Act (FFATA) (P.L. 109-282), specifically (a) the reporting of subawards obligating \$25,000 or more in federal funds and (b) executive compensation data for first-tier subawards. This includes the provisions of FFATA, which includes requirements for executive compensation, and also requirements implementing the Act for the non-federal entity at 2 CFR part 25 Financial Assistance Use of Universal Identifier and Central Contractor Registration and 2 CFR part 170 Reporting Subaward and Executive Compensation Information.
 - I. The total Federal funding authorized to date under this award is \$25,000 or more;
 - II. In the preceding fiscal year, you received 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance

subject to the Transparency Act, as defined at 2 CFR § 170.320 (and subawards); and \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR § 170.320 (and subawards); and

- III. The public does not have access to information about the compensation of the executives through periodic reports filed under Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. §§ 78m(a), 78o(d)) or § 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/excomp.htm>.)
- IV. Subrecipient Executives. Unless you are exempt as provided above, for each first-tier Subrecipient under this award, you shall report the names and total compensation of each of the Subrecipients five most highly compensated executives for the Subrecipients preceding completed fiscal year, if in the Subrecipients preceding fiscal year, the Subrecipient received 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR § 170.320 (and subawards); and \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and the public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. §§ 78m(a), 78o(d)) or § 6104 of the Internal Revenue Code of 1986.

- 70. The Subrecipient acknowledges that equipment purchased with grant funds must be accounted for, tagged (*if applicable*), photographed and reconciled by/with the San Bernardino SBCFPD, Grants Administration Unit's property records at each scheduled inventory inspection.
- 71. The Subrecipient will develop a control tracking system to ensure adequate safeguards to prevent loss, damage or theft of grant funded equipment.
- 72. When equipment purchased with grant funds is no longer needed or is in need of being replaced, Subrecipient will request disposition instructions from SBCFPD, Grants Administration Unit.
- 73. If items are lost, stolen, or damaged, Subrecipient will provide explanation on the Damage, Lost, Stolen, or Retired (DLSR) form of how it happened and how Subrecipient is going to prevent it from happening in the future.

74. Personnel Activity Report (PAR)

Any employee who is partially funded by federal grants must maintain time and effort reporting and document the time they spend working on the grant's objectives. Documentation must reflect "actual" time spent by the employee on grants being charged (2 CFR 225, Appendix B.8.h). Attached is a Personnel Activity Report (PAR) document to assist in proper grant payroll documentation. PARs must itemized/log the time the employee has worked on a funded grant project. If your agency already has the capability of producing a document equivalent to the attached PAR form from your existing payroll system, you do NOT need to use the attached PAR to your track time. Salary costs that are not accurately and properly documented are "unallowable costs" and will not be reimbursed. If you have been reimbursed for wages that were not properly recorded and supported, the State or Federal Governments may require your agency to pay back any "unallowable costs."

- 75. The Subrecipient will provide (2) photos in color or black & white of each grant purchased equipment and photo of serial number, if applicable. Provide the intended location of deployment/assignment of the equipment.
- 76. Understands that failure to comply with any of the above assurances may result in suspension, termination, or reduction of grant funds.
- 77. The undersigned represents that he/she is authorized by the above named Subrecipient to enter into this

agreement for and on behalf of the said Subrecipient.

78. Worker's Compensation

The Subrecipient must comply with provisions which require every employer to be insured to protect workers who may be injured on the job before commencing performance of the work of this Agreement, as per the workers compensation laws set forth in California Labor Code §§3700 et seq.

79. Certifications Applicable Only to Federally-Funded Construction Projects

For all construction projects, the Subrecipient will:

- a) Not dispose of, modify the use of, or change the terms of the real property title of other interest in the site and facilities without permission and instruction from the awarding agency. Will record the federal awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with federal assistance funds to assure nondiscrimination during the useful life of the project.
- b) Comply with the requirements of the awarding agency with regard to the drafting, review and approval of construction plans and specifications.
- c) Provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms to the approved plans and specifications and will furnish progressive reports and such other information as may be required by the assistance awarding agency or State.

80. Use of Cellular Device While Driving is Prohibited

The Subrecipients are required to comply with California Vehicle Code sections 23123 and 23123.5. These laws prohibit driving a motor vehicle while using an electronic wireless communication device to write, send, or read a text-based communication. Drivers are also prohibited from the use of a wireless telephone without hands-free listening and talking, unless to make an emergency call to 911, law enforcement, or similar services.

81. Freedom of Information Act

The Subrecipient acknowledges that all information submitted in the course of applying for funding under this program, or provide in the course of an entity's grant management activities that are under Federal control, is subject to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the California Public Records Rights Act, California Government Code section 6250 et seq. The Subrecipient should consider the release of information when reporting sensitive matters in the grant application, needs assessment, and strategic planning process.

82. Whistleblower Protections

The Subrecipient also must comply with statutory requirements for whistleblower protections at 10 U.S.C § 2409, 41 U.S.C. §4712 and 10 U.S.C §2324, 41 U.S.C. §4304 and § 4310.

83. Labor Standards

The Subrecipient will comply with the following federal labor standards:

- a) Comply with provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), as applicable, and the Copeland Act (40 U.S.C. § 3145 and 18 U.S.C. §874) and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction contracts or subcontracts.
- b) Comply with the Federal Fair Labor Standards Act (29 U.S.C. §201 et al.) as they apply to employees of institutes of higher learning (IHE), hospitals and other non-profit organizations.

84. Acknowledgement of Federal Funding from DHS

All Subrecipients must acknowledge their use of federal funding when issuing statements, press releases, request for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with federal funds.

85. Activities Conducted Abroad

All Subrecipients must ensure that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

86. Energy Policy and Conservation Act

All Subrecipients must comply with the requirements of 42 U.S.C. § 6201 which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.

87. Terrorist Financing

All Subrecipients must comply with Executive Order 13224 and U.S. law that prohibit transactions with, and the provisions of resources and support to, individual and organizations associated with terrorism. It is the legal responsibility of recipients to ensure compliance with the Order and laws.

88. Reporting of Matter Related to Recipient Integrity Performance

If the total value of the Subrecipients' currently active grants, cooperative agreements, and procurement contracts from all federal assistance office exceeds \$10,000,000 for any period of time during the period of performance of this federal award, the Subrecipient must comply with the requirement set forth in the government-wide Award Term and Condition for Recipient Integrity and Performance Matters located at 2 C.F.R. Part 200, Appendix XII, the full text of which is incorporated here by reference in the terms and conditions of your award.

IMPORTANT

The purpose of the assurance is to obtain federal and state financial assistance, including any and all federal and state grants, loans, reimbursement, contracts, etc. The Subrecipient recognizes and agrees that state financial assistance will be extended based on the representations made in this assurance. This assurance is binding on the Subrecipient, its successors, transferees, assignees, etc. Failure to comply with any of the above assurance may result in suspension, termination, or reduction of grant funds.

All appropriate documentation, as outlined above, must be maintained on file by the Subrecipient and available for Cal OES or public scrutiny upon request. Failure to comply with these requirements may result in suspension of payments under the grants or termination of the grant or both and the Subrecipient may be ineligible for awards of any future grants if the Cal OES determines that any of the following has occurred: (1) the recipient has made false certification, or (2) violates the certification by failing to carry out the requirements as noted above.

All of language contained within this document must be included in the awards documents for all subawards at all tiers, including contracts under grants and cooperative agreements and subcontracts. All recipients are bound by the Department of Homeland Security Standard Terms and Conditions 2017, Version 6.0, hereby incorporated by reference, which can be found at:
<https://www.dhs.gov/sites/default/files/publications/Fiscal%20Year%202016%20DHS%20General%20Terms%20and%20Conditions.pdf>

The Undersigned represents that he/she is authorized to enter into this agreement for and on behalf of the said Applicant:

Applicant: Montclair Police Department

Signature of Authorized Agent: 

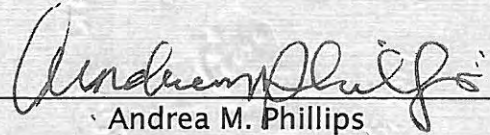
Printed Name of Authorized Agent: City Manager

Title: City Manager Date: 12/21/2017

MEMORANDUM

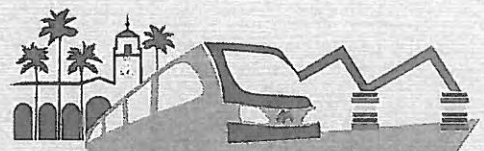


I, Andrea M. Phillips, City Clerk of the City of Montclair, DO HEREBY CERTIFY the attached correspondence dated January 9, 2018, and addressed to San Bernardino County Fire ("SBCo. Fire, OES") is the true and correct original correspondence to the same, and that a copy of the correspondence is on file in the Finance Department of the City of Montclair.



Andrea M. Phillips
City Clerk

Dated: January 9, 2018





January 9, 2018

SBCo. Fire, OES
 Attn: Kalina Cox
 1743 Miro Way
 Rialto, CA 92376

Subject: City of Montclair Certification Letter
 Regarding Federal Award FY2017 Homeland Security Grant Program

1) Name of Entity receiving the Award: City of Montclair

2) Amount of Award	3) Funding Agency	4) Federal CFDA Number	5) Award Title
127,625.00	U.S. Department of Health and Human Services	93.045/93.053	Special Programs for the Aging Title III, Part C Nutrition Services, and NSIP
10,000.00	U.S. Department of Health and Human Services	93.044	Special Programs for the Aging Title III, Part B for Supportive Services and Senior Centers
25,974.00	U.S. Department of Housing/ Urban Development	14.218	CDBG – Graffiti Eradication Program
13,145.00	U.S. Department of Housing/ Urban Development	14.218	CDBG – Senior Transportation Services
23,294.00	U.S. Department of Housing/ Urban Development	14.218	CDBG – Code Enforcement
168,154.00	U.S. Department of Housing/ Urban Development	14.218	CDBG – San Bernardino St Alley from (Monte Vista to Helena St)
110,805.00	US Dept of Transportation (FTA)	20.525	FHWA-Monte Vista Grade Separation
31,776.00	US Dept of Transportation (NHTSA)	20.608/20.600	Selective Traffic Enforcement Program (STEP)
15,055.00	Department of Justice Bureau of Justice Assistance	16.738	FY 2016 Edward Byrne Memorial Justice Assistance Grant Program
9,211.00	U.S. Department of Homeland Security	97.067	Homeland Security Grant FY 2015

CITY OF MONTCLAIR

5111 Benito Street, P.O. Box 2308, Montclair, CA 91763 (909) 626-8571 FAX (909) 621-1584

- 6) Location of the entity and primary location of performance including city, state, and Congressional District:

Montclair, California
California State Assembly District 52
California State Senate District 20
U.S. Congressional District 35

- 7) Dun & Bradstreet (D & B) DUNS Number of the entity and its parent if applicable:

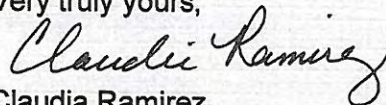
084976919

- 8) Total compensation and names of top five executives, unless the subrecipient is exempt from this requirement as provided in Section (d) of this paragraph.

Not applicable

If you have any questions, just give Administrative Aide Trudy Burson, Montclair Police Department, a call at (909) 448-3609.

Very truly yours,



Claudia Ramirez
Accounting Specialist

**SAN BERNARDINO COUNTY OPERATIONAL AREA
FY2017 HOMELAND SECURITY GRANT PROGRAM**

APPLICATION WORKBOOK CERTIFICATION

I, Robert Avels as the Authorized Agent
for Montclair Police Department JURISDICTION,
certify that our jurisdiction has read and acknowledges the Homeland Security Grant Program (HSGP)
guidelines specified in the document hereof.



Authorized Agent Signature

01/03/18

Date

Robert Avels, Chief of Police

Print Name



Project Manager Signature

01/03/18

Date

Trudy Burson, Administrative Aide

Print Name

**CALIFORNIA GOVERNOR'S OFFICE OF EMERGENCY SERVICES
SUBRECIPIENT GRANTS MANAGEMENT ASSESSMENT**

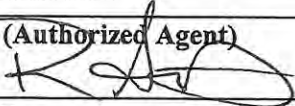
Subrecipient: Montclair Police Department	DUNS #: 084976919	FIPS #:
Grant Disaster/Program Title: Homeland Security Grant Program		
Performance Period: 9/1/17 to 5/31/2020	Subaward Amount Requested: \$ 17,586	
Type of Non-Federal Entity (Check Box)	<input type="checkbox"/> State Gov. <input checked="" type="checkbox"/> Local Gov. <input type="checkbox"/> JPA <input type="checkbox"/> Non-Profit <input type="checkbox"/> Tribe	

Per Title 2 CFR § 200.331, Cal OES is required to evaluate the risk of noncompliance with federal statutes, regulations and grant terms and conditions posed by each subrecipient of pass-through funding. This assessment is made in order to determine and provide an appropriate level of technical assistance, training, and grant oversight to subrecipients for the award referenced above.

The following are questions related to your organization's experience in the management of grant awards. This questionnaire must be completed and returned with your grant application materials.

For purposes of completing this questionnaire, *grant manager* is the individual who has primary responsibility for day-to-day administration of the grant, *bookkeeper/accounting staff* means the individual who has responsibility for reviewing and determining expenditures to be charged to the grant award, and *organization* refers to the subrecipient applying for the award, or the governmental implementing agency, as applicable.

Assessment Factors	Response
1. How many years of experience does your current grant manager have managing grants?	>5 years
2. How many years of experience does your current bookkeeper/accounting staff have managing grants?	>5 years
3. How many grants does your organization currently receive?	3-10 grants
4. What is the approximate total dollar amount of all grants your organization receive?	\$ 342,000
5. Are individual staff members assigned to work on multiple grants?	No
6. Do you use timesheets to track the time staff spend working on specific activities/projects?	No
7. How often does your organization have a financial audit?	Annually
8. Has your organization received any audit findings in the last three years?	No
9. Do you have a written plan on how you charge costs to grants?	No
10. Do you have written procurement policies?	Yes
11. Do you get multiple quotes or bids when buying items or services?	Sometimes
12. How many years do you maintain receipts, deposits, cancelled checks, invoices, etc.?	>5 years
13. Do you have procedures to monitor grant funds passed through to other entities?	N/A

Certification: <i>This is to certify that, to the best of our knowledge and belief, the data furnished above is accurate, complete and current.</i>	
Signature: (Authorized Agent) 	Date: 1-9-18
Print Name: Robert Avels	Print Title: Chief of Police

Username

[Forgot Username?](#)

Password

[Forgot Password?](#)

[Log In](#)
[Create an Account](#)

Search Results

Current Search Terms: city* of montclair*

Your search for "city* of montclair*" returned the following results...

Notice: This printed document represents only the first page of your SAM search results. More results may be available. To print your complete search results, you can download the PDF and print it.

Entity Montclair, City Of	Status: Active <input type="checkbox"/>
DUNS: 084976919	CAGE Code: 531U7 View Details
Has Active Exclusion?: No	DoDAAC:
Expiration Date: 06/26/2018	Debt Subject to Offset? No
Purpose of Registration: All Awards	
Address: 5111 Benito St	
City: Montclair	State/Province: CA
ZIP Code: 91763-2808	Country: UNITED STATES



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- [GSA.gov/IAE](#)
- [GSA.gov](#)
- [USA.gov](#)

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This is a U.S. General Services Administration Federal Government computer system that is "FOR OFFICIAL USE ONLY." This system is subject to monitoring. Individuals found performing unauthorized activities are subject to disciplinary action including criminal prosecution.



AGENDA REPORT

DATE: MAY 20, 2019

FILE I.D.: STA812

SECTION: AGREEMENTS

DEPT.: PUBLIC WORKS

ITEM NO.: 2

PREPARER: S. STANTON

SUBJECT: CONSIDER AUTHORIZING AN ADDITIONAL \$95,000 APPROPRIATION FROM THE SB1 FUND FOR COSTS RELATED TO CONSTRUCTION OF THE MORENO STREET REHABILITATION PROJECT

CONSIDER AWARD OF CONTRACT TO HARDY & HARPER, INC., IN THE AMOUNT OF \$453,871 FOR CONSTRUCTION OF THE MORENO STREET REHABILITATION PROJECT

CONSIDER APPROVAL OF AGREEMENT NO. 19-36 WITH HARDY & HARPER, INC., FOR CONSTRUCTION OF THE MORENO STREET REHABILITATION PROJECT

CONSIDER AUTHORIZATION OF A \$40,000 CONSTRUCTION CONTINGENCY FOR THE MORENO STREET REHABILITATION PROJECT

REASON FOR CONSIDERATION: Staff is recommending approval of an additional appropriation of funds and the award of a construction contract for the Moreno Street Rehabilitation Project. Appropriations, awards of contracts, and agreements with the City require City Council approval.

BACKGROUND: On March 18, 2019, City Council amended the 2017-2022 Capital Improvement Program (CIP), including the Moreno Street Rehabilitation Project. The project was approved with an appropriation of \$250,000 from the SB1 Fund and \$150,000 from Pavement Impact Fees. The project is intended to replace uplifted curb, gutter, and sidewalk, and resurface Moreno Street between Monte Vista Avenue and Mills Avenue. The project also includes residential streets north of Moreno Street between Surrey Avenue on the east and Fremont Avenue on the west.

On May 2, 2019, the City received and opened seven bid proposals for the Moreno Street Rehabilitation Project. The bid results are shown below.

<u><i>Bidder</i></u>	<u><i>Bid Amount</i></u>
<i>Engineers Estimate</i>	<i>\$385,000.00</i>
Hardy & Harper, Inc.	\$453,871.00
Sequal Contractors, Inc.	\$477,404.00
E.C. Construction, Inc.	\$493,624.25
Gentry Brothers, Inc.	\$496,770.00
Palp Construction	\$515,515.00

All American Asphalt	\$535,828.00
Onyx Paving Company	\$567,000.00

Following the bid opening, the seven bid proposals were reviewed for completeness and accuracy. The bid proposal from the apparent low bidder, Hardy & Harper, Inc., provided all required documents and was deemed the lowest responsible, responsive bidder for the project. Hardy & Harper, Inc. has performed several projects for the City and based on prior experiences, Hardy & Harper, Inc. is known to have the personnel, equipment, and job experience necessary to complete this contract in accordance with the project specifications.

Staff is recommending an additional appropriation of \$95,000 from the SB1 Fund to cover the shortage of funds. The shortage comes from inflated construction costs associated with concrete and asphalt over the last six months.

The City Engineer has reviewed the plans and specifications for the project and has determined that they are in conformity with applicable statutes, codes, standards, and/or guidelines.

The anticipated duration of this project is 45 working days, and the work is expected to begin in early June and be completed no later than August 1, 2019.

FISCAL IMPACT: Following the bid opening on May 2, 2019, the project was underfunded roughly \$55,000 for construction expenses plus an additional \$40,000 for a construction contingency. Staff is recommending the use of SB1 Funds to cover the shortage. In total, the project will have the original appropriation of \$400,000 and an additional appropriation of \$95,000 from the SB1 Fund, bringing the overall budget to \$495,000.

RECOMMENDATION: Staff recommends that the City Council take the following actions:

1. Consider authorizing an additional \$95,000 appropriation from the SB1 Fund for costs related to construction of the Moreno Street Rehabilitation Project.
2. Consider award of contract to Hardy & Harper, Inc., in the amount of \$453,871 for construction of the Moreno Street Rehabilitation Project.
3. Consider approval of Agreement No. 19-36 with Hardy & Harper, Inc., for the Moreno Street Rehabilitation Project.
4. Consider authorization of a \$40,000 construction contingency for the Moreno Street Rehabilitation Project.

KNOW ALL MEN BY THESE PRESENTS: That the following Agreement is made and entered into as of the date executed by the City Clerk and the Mayor, by and between **HARDY & HARPER, INC.** a **CORPORATION**, hereinafter referred to as "CONTRACTOR" and the CITY OF MONTCLAIR, hereinafter referred to as "CITY."

A. Recitals.

- (i) Pursuant to Notice Inviting Sealed Bids or Proposals, bids were received, publicly opened, and declared on the date specified in said notice.
- (ii) CITY did accept the bid of CONTRACTOR.
- (iii) CITY has authorized the City Clerk and Mayor to enter into a written contract with CONTRACTOR for furnishing labor, equipment, and material for the construction of:
- (iv)

MORENO STREET REHABILITATION PROJECT

"PROJECT" hereinafter.

B. Resolution.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, it is agreed:

1. GENERAL SCOPE OF WORK: CONTRACTOR shall furnish all necessary labor, tools, materials, appliances, and equipment for and do all work contemplated and embraced for the PROJECT. Said PROJECT to be performed in accordance with specifications and standards on file in the Office of the City Engineer and in accordance with bid prices hereinafter mentioned and in accordance with the instructions of the Engineer.
2. INCORPORATED DOCUMENTS TO BE CONSIDERED COMPLEMENTARY: The aforesaid specifications are incorporated herein by reference thereto and made a part hereof with like force and effect as if all of said documents were set forth in full herein. Said documents, the Notice Inviting Bids, the Instructions to Bidders, the Proposal and any City-issued addenda, together with this written Agreement, shall constitute the contract between the parties. This contract is intended to require a complete and finished piece of work and anything necessary to complete the work properly and in accordance with the law and lawful governmental regulations shall be performed by the CONTRACTOR whether set out specifically in the contract or not. Should it be ascertained that any inconsistency exists between the aforesaid documents and this written Agreement, the provisions of this written Agreement shall control.
3. TERMS OF CONTRACT: The CONTRACTOR agrees to execute the contract within ten (10) calendar days from the date of notice of award of the contract and to complete his portion of PROJECT within the time specified in the Special Provisions. CONTRACTOR agrees further to the assessment of liquidated damages in the amount specified in the Special Provisions or the Standard Specifications, whichever is higher, for

AGREEMENT

each calendar day PROJECT remains incomplete beyond the expiration of the completion date. CITY may deduct the amount thereof from any moneys due or that may become due the CONTRACTOR under this contract. Progress payments made after the scheduled date of completion shall not constitute a waiver of liquidated damages.

4. GOVERNING LAW: The City and Contractor understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court with jurisdiction over the City of Montclair.

5. INSURANCE: The CONTRACTOR shall not commence work under this contract until he has obtained all insurance required hereunder in a company or companies acceptable to CITY nor shall the CONTRACTOR allow any subcontractor to commence work on his subcontract until all insurance required of the subcontractor has been obtained. The CONTRACTOR shall take out and maintain at all times during the life of this contract the following policies of insurance:

a. Compensation Insurance: Before beginning work, the CONTRACTOR shall furnish to the Engineer a policy of insurance or proper endorsement as proof that he has taken out full compensation insurance for all persons whom he may employ directly or through subcontractors in carrying out the work specified herein, in accordance with the laws of the State of California. Such insurance shall be maintained in full force and effect during the period covered by this contract.

In accordance with the provisions of §3700 of the California Labor Code, every contractor shall secure the payment of compensation to his employees. CONTRACTOR, prior to commencing work, shall sign and file with CITY a certification as follows:

"I am aware of the provisions of §3700 of the Labor Code which require every employer to be insured against liability for worker's compensation or to undertake self insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the work of this contract."

b. For all operations of the CONTRACTOR or any subcontractor in performing the work provided for herein, insurance with the following minimum limits and coverage:

- (1) Public Liability - Bodily Injury (not auto) \$1,000,000 each person; \$2,000,000 each accident.
- (2) Public Liability - Property Damage (not auto) \$500,000 each accident; \$1,000,000 aggregate.
- (3) Contractor's Protective - Bodily Injury \$1,000,000 each person; \$2,000,000 each accident.
- (4) Contractor's Protective - Property Damage \$500,000 each accident; \$1,000,000 aggregate.

AGREEMENT

- (5) Automobile - Bodily Injury \$1,000,000 each person; \$2,000,000 each accident.
 - (6) Automobile - Property Damage \$500,000 each accident.
 - c. The policy of insurance provided for in subparagraph a. shall contain an endorsement which:
 - (1) Waives all right of subrogation against all persons and entities specified in subparagraph 4.d.(2) hereof to be listed as additional insureds in the policy of insurance provided for in paragraph b. by reason of any claim arising out of or connected with the operations of CONTRACTOR or any subcontractor in performing the work provided for herein;
 - (2) Provides it shall not be canceled or altered without thirty (30) days' written notice thereof given to CITY by registered mail.
 - d. Each such policy of insurance provided for in paragraph b. shall:
 - (1) Be issued by an insurance company approved in writing by CITY, which is qualified to do business in the State of California;
 - (2) Name as additional insureds the CITY, its officers, agents and employees, and any other parties specified in the bid documents to be so included;
 - (3) Specify it acts as primary insurance and that no insurance held or owned by the designated additional insureds shall be called upon to cover a loss under said policy;
 - (4) Contain a clause substantially in the following words:

"It is hereby understood and agreed that this policy may not be canceled nor the amount of the coverage thereof reduced until thirty (30) days after receipt by CITY of a written notice of such cancellation or reduction of coverage as evidenced by receipt of a registered letter."
 - (5) Otherwise be in form satisfactory to CITY.
 - e. The CONTRACTOR shall at the time of the execution of the contract present the original policies of insurance required in paragraphs a. and b., hereof, or present an endorsement of the insurance company, showing the issuance of such insurance, and the additional insureds and other provisions required herein.
6. CONTRACTOR'S LIABILITY: The City of Montclair and its respective officers, agents and employees shall not be answerable or accountable in any manner for any loss or damage that may happen to the project or any part thereof, or for any of the materials or other things used or employed in performing the project; or for injury or

AGREEMENT

damage to any person or persons, either workmen, employees of the CONTRACTOR or his subcontractors or the public, whatsoever arising out of or in connection with the performance of the project. The CONTRACTOR shall be responsible for any damage or injury to any person or property resulting from defects or obstructions or from any cause whatsoever, except the sole negligence or willful misconduct of CITY, its employees, servants, or independent contractors who are directly responsible to CITY during the progress of the project or at any time before its completion and final acceptance.

The CONTRACTOR will indemnify CITY against and will hold and save CITY harmless from any and all actions, claims, damages to persons or property, penalties, obligations, or liabilities that may be asserted or claimed by any person, firm, entity, corporation, political subdivision, or other organization arising out of or in connection with the work, operation, or activities of the CONTRACTOR, his agents, employees, subcontractors, or invitees provided for herein, whether or not there is concurrent passive or active negligence on the part of CITY, but excluding such actions, claims, damages to persons or property, penalties, obligations, or liabilities arising from the sole negligence or willful misconduct of CITY, its employees, servants, or independent contractors who are directly responsible to CITY, and in connection therewith:

- a. The CONTRACTOR will defend any action or actions filed in connection with any of said claims, damages, penalties, obligations, or liabilities and will pay all costs and expenses, including attorneys' fees incurred in connection therewith.
- b. The CONTRACTOR will promptly pay any judgment or award rendered against the CONTRACTOR or CITY covering such claims, damages, penalties, obligations, and liabilities arising out of or in connection with such work, operations, or activities of the CONTRACTOR hereunder or reasonable settlement in lieu of judgment or award, and the CONTRACTOR agrees to save and hold the CITY harmless therefrom.
- c. In the event CITY is made a party to any action or proceeding filed or prosecuted against the CONTRACTOR for damages or other claims arising out of or in connection with the project, operation, or activities of the CONTRACTOR hereunder, the CONTRACTOR agrees to pay to CITY any and all costs and expenses incurred by CITY in such action or proceeding together with reasonable attorneys' fees.

Money due to the CONTRACTOR under and by virtue of the contract, as shall be considered necessary by CITY, may be retained by CITY until disposition has been made of such actions or claims for damage as aforesaid.

AGREEMENT

7. **NONDISCRIMINATION:** No discrimination shall be made in the employment of persons upon public works because of the race, color, sex, sexual preference, sexual orientation, or religion of such persons, and every contractor for public works violating this section is subject to all the penalties imposed for a violation of Division 2, Part 7, Chapter 1 of the Labor Code in accordance with the provisions of § 1735 of said Code.

8. **INELIGIBLE SUBCONTRACTORS:** The CONTRACTOR shall be prohibited from performing work on this project with a subcontractor who is ineligible to perform on the project pursuant to § 1777.1 and § 1777.7 of the Labor Code.

9. **CONTRACT PRICE AND PAYMENT:** CITY shall pay to the CONTRACTOR for furnishing the material and doing the prescribed work the unit prices set forth in accordance with CONTRACTOR's Proposal dated **May 1, 2019**.

10. **ATTORNEYS' FEES:** In the event that any action or proceeding is brought by either party to enforce any term or provision of this Agreement, the prevailing party shall recover its reasonable attorneys' fees and costs incurred with respect thereto.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly executed with all the formalities required by law on the respective dates set forth opposite their signatures.

CONTRACTOR

CITY

Hardy & Harper, Inc.
32 Rancho Circle
Lake Forest, CA. 92630

CITY OF MONTLAIR, CALIFORNIA

By: _____

Javier "John" Dutrey
Mayor

Name & Title

ATTEST:

By: _____

Andrea M. Phillips
City Clerk

Name & Title

APPROVED AS TO FORM:

Diane E. Robbins
City Attorney



AGENDA REPORT

DATE: MAY 20, 2019

FILE I.D.: STA810A

SECTION: AGREEMENTS

DEPT.: PUBLIC WORKS

ITEM NO.: 3

PREPARER: S. STANTON

SUBJECT: CONSIDER AWARD OF CONTRACT TO GENTRY BROTHERS, INC., IN THE AMOUNT OF \$286,929 FOR CONSTRUCTION OF THE SAN JOSE STREET REHABILITATION PROJECT

CONSIDER APPROVAL OF AGREEMENT NO. 19-37 WITH GENTRY BROTHERS, INC., FOR CONSTRUCTION OF THE SAN JOSE STREET REHABILITATION PROJECT

CONSIDER AUTHORIZATION OF A \$10,000 CONSTRUCTION CONTINGENCY FOR THE SAN JOSE STREET REHABILITATION PROJECT

REASON FOR CONSIDERATION: Staff is recommending that City Council award a construction contract for the San Jose Street Rehabilitation Project. Awards of contracts and agreements with the City require City Council approval.

BACKGROUND: On March 18, 2019, City Council amended the 2017-2022 Capital Improvement Program (CIP), by including the San Jose Street Rehabilitation Project. The project was approved with an appropriation of \$200,000 of SB1 Proceeds and \$100,000 of Pavement Impact Fees. The project is intended to replace uplifted curb, gutter, and sidewalk and resurface San Jose Street between Monte Vista Avenue and Mills Avenue.

On May 9, 2019, the City received and opened six bid proposals for the San Jose Street Rehabilitation Project. The bid results are shown below.

<i>Bidder</i>	<i>Bid Amount</i>
<i>Engineers Estimate</i>	<i>\$250,000.00</i>
Gentry Brothers, Inc.	\$286,929.00
Hardy & Harper, Inc.	\$303,811.00
All American Asphalt, Inc.	\$324,237.00
Palp Construction	\$327,468.00
E.C. Construction	\$329,464.89
Onyx Paving	\$345,000.00

Following the bid opening, the six bid proposals were reviewed for completeness and accuracy. The bid proposal from the apparent low bidder, Gentry Brothers, Inc., provided all required documents and was deemed the lowest responsible, responsive bidder for the project. Gentry Brothers, Inc. has performed several projects for the City. Based on

prior experiences, Gentry Brothers, Inc. is known to have the personnel, equipment, and job experience necessary to complete this contract in accordance with the project specifications.

The City Engineer has reviewed the plans and specifications for the project and has determined that they are in conformity with applicable statues, codes, standards, and/or guidelines.

The anticipated duration of this project is 30 working days. The work is expected to begin in early June and be completed no later than July 30, 2019.

FISCAL IMPACT: The project has \$200,000 of SB1 Proceeds and an additional appropriation of \$100,000 from Pavement Impact Fees, bringing the overall budget to \$300,000.

RECOMMENDATION: Staff recommends that the City Council take the following actions:

1. Consider award of contract to Gentry Brothers, Inc., in the amount of \$286,929 for construction of the San Jose Street Rehabilitation Project.
2. Consider approval of Agreement No. 19-37 with Gentry Brothers, Inc., for construction of the San Jose Street Rehabilitation Project.
3. Consider authorization of a \$10,000 construction contingency for the San Jose Street Rehabilitation Project.

KNOW ALL MEN BY THESE PRESENTS: That the following Agreement is made and entered into as of the date executed by the City Clerk and the Mayor, by and between **GENTRY BROTHERS, INC.** a **CORPORATION**, hereinafter referred to as "CONTRACTOR" and the CITY OF MONTCLAIR, hereinafter referred to as "CITY."

A. Recitals.

- (i) Pursuant to Notice Inviting Sealed Bids or Proposals, bids were received, publicly opened, and declared on the date specified in said notice.
- (ii) CITY did accept the bid of CONTRACTOR.
- (iii) CITY has authorized the City Clerk and Mayor to enter into a written contract with CONTRACTOR for furnishing labor, equipment, and material for the construction of:
- (iv)

SAN JOSE STREET REHABILITATION PROJECT

"PROJECT" hereinafter.

B. Resolution.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, it is agreed:

1. GENERAL SCOPE OF WORK: CONTRACTOR shall furnish all necessary labor, tools, materials, appliances, and equipment for and do all work contemplated and embraced for the PROJECT. Said PROJECT to be performed in accordance with specifications and standards on file in the Office of the City Engineer and in accordance with bid prices hereinafter mentioned and in accordance with the instructions of the Engineer.
2. INCORPORATED DOCUMENTS TO BE CONSIDERED COMPLEMENTARY: The aforesaid specifications are incorporated herein by reference thereto and made a part hereof with like force and effect as if all of said documents were set forth in full herein. Said documents, the Notice Inviting Bids, the Instructions to Bidders, the Proposal and any City-issued addenda, together with this written Agreement, shall constitute the contract between the parties. This contract is intended to require a complete and finished piece of work and anything necessary to complete the work properly and in accordance with the law and lawful governmental regulations shall be performed by the CONTRACTOR whether set out specifically in the contract or not. Should it be ascertained that any inconsistency exists between the aforesaid documents and this written Agreement, the provisions of this written Agreement shall control.
3. TERMS OF CONTRACT: The CONTRACTOR agrees to execute the contract within ten (10) calendar days from the date of notice of award of the contract and to complete his portion of PROJECT within the time specified in the Special Provisions. CONTRACTOR agrees further to the assessment of liquidated damages in the amount specified in the Special Provisions or the Standard Specifications, whichever is higher, for

AGREEMENT

each calendar day PROJECT remains incomplete beyond the expiration of the completion date. CITY may deduct the amount thereof from any moneys due or that may become due the CONTRACTOR under this contract. Progress payments made after the scheduled date of completion shall not constitute a waiver of liquidated damages.

4. GOVERNING LAW: The City and Contractor understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court with jurisdiction over the City of Montclair.

5. INSURANCE: The CONTRACTOR shall not commence work under this contract until he has obtained all insurance required hereunder in a company or companies acceptable to CITY nor shall the CONTRACTOR allow any subcontractor to commence work on his subcontract until all insurance required of the subcontractor has been obtained. The CONTRACTOR shall take out and maintain at all times during the life of this contract the following policies of insurance:

a. Compensation Insurance: Before beginning work, the CONTRACTOR shall furnish to the Engineer a policy of insurance or proper endorsement as proof that he has taken out full compensation insurance for all persons whom he may employ directly or through subcontractors in carrying out the work specified herein, in accordance with the laws of the State of California. Such insurance shall be maintained in full force and effect during the period covered by this contract.

In accordance with the provisions of §3700 of the California Labor Code, every contractor shall secure the payment of compensation to his employees. CONTRACTOR, prior to commencing work, shall sign and file with CITY a certification as follows:

"I am aware of the provisions of §3700 of the Labor Code which require every employer to be insured against liability for worker's compensation or to undertake self insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the work of this contract."

b. For all operations of the CONTRACTOR or any subcontractor in performing the work provided for herein, insurance with the following minimum limits and coverage:

- (1) Public Liability - Bodily Injury (not auto) \$1,000,000 each person; \$2,000,000 each accident.
- (2) Public Liability - Property Damage (not auto) \$500,000 each accident; \$1,000,000 aggregate.
- (3) Contractor's Protective - Bodily Injury \$1,000,000 each person; \$2,000,000 each accident.
- (4) Contractor's Protective - Property Damage \$500,000 each accident; \$1,000,000 aggregate.

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- (5) Automobile - Bodily Injury \$1,000,000 each person; \$2,000,000 each accident.
 - (6) Automobile - Property Damage \$500,000 each accident.
 - c. The policy of insurance provided for in subparagraph a. shall contain an endorsement which:
 - (1) Waives all right of subrogation against all persons and entities specified in subparagraph 4.d.(2) hereof to be listed as additional insureds in the policy of insurance provided for in paragraph b. by reason of any claim arising out of or connected with the operations of CONTRACTOR or any subcontractor in performing the work provided for herein;
 - (2) Provides it shall not be canceled or altered without thirty (30) days' written notice thereof given to CITY by registered mail.
 - d. Each such policy of insurance provided for in paragraph b. shall:
 - (1) Be issued by an insurance company approved in writing by CITY, which is qualified to do business in the State of California;
 - (2) Name as additional insureds the CITY, its officers, agents and employees, and any other parties specified in the bid documents to be so included;
 - (3) Specify it acts as primary insurance and that no insurance held or owned by the designated additional insureds shall be called upon to cover a loss under said policy;
 - (4) Contain a clause substantially in the following words:

"It is hereby understood and agreed that this policy may not be canceled nor the amount of the coverage thereof reduced until thirty (30) days after receipt by CITY of a written notice of such cancellation or reduction of coverage as evidenced by receipt of a registered letter."
 - (5) Otherwise be in form satisfactory to CITY.
 - e. The CONTRACTOR shall at the time of the execution of the contract present the original policies of insurance required in paragraphs a. and b., hereof, or present an endorsement of the insurance company, showing the issuance of such insurance, and the additional insureds and other provisions required herein.
6. CONTRACTOR'S LIABILITY: The City of Montclair and its respective officers, agents and employees shall not be answerable or accountable in any manner for any loss or damage that may happen to the project or any part thereof, or for any of the materials or other things used or employed in performing the project; or for injury or

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damage to any person or persons, either workmen, employees of the CONTRACTOR or his subcontractors or the public, whatsoever arising out of or in connection with the performance of the project. The CONTRACTOR shall be responsible for any damage or injury to any person or property resulting from defects or obstructions or from any cause whatsoever, except the sole negligence or willful misconduct of CITY, its employees, servants, or independent contractors who are directly responsible to CITY during the progress of the project or at any time before its completion and final acceptance.

The CONTRACTOR will indemnify CITY against and will hold and save CITY harmless from any and all actions, claims, damages to persons or property, penalties, obligations, or liabilities that may be asserted or claimed by any person, firm, entity, corporation, political subdivision, or other organization arising out of or in connection with the work, operation, or activities of the CONTRACTOR, his agents, employees, subcontractors, or invitees provided for herein, whether or not there is concurrent passive or active negligence on the part of CITY, but excluding such actions, claims, damages to persons or property, penalties, obligations, or liabilities arising from the sole negligence or willful misconduct of CITY, its employees, servants, or independent contractors who are directly responsible to CITY, and in connection therewith:

- a. The CONTRACTOR will defend any action or actions filed in connection with any of said claims, damages, penalties, obligations, or liabilities and will pay all costs and expenses, including attorneys' fees incurred in connection therewith.
- b. The CONTRACTOR will promptly pay any judgment or award rendered against the CONTRACTOR or CITY covering such claims, damages, penalties, obligations, and liabilities arising out of or in connection with such work, operations, or activities of the CONTRACTOR hereunder or reasonable settlement in lieu of judgment or award, and the CONTRACTOR agrees to save and hold the CITY harmless therefrom.
- c. In the event CITY is made a party to any action or proceeding filed or prosecuted against the CONTRACTOR for damages or other claims arising out of or in connection with the project, operation, or activities of the CONTRACTOR hereunder, the CONTRACTOR agrees to pay to CITY any and all costs and expenses incurred by CITY in such action or proceeding together with reasonable attorneys' fees.

Money due to the CONTRACTOR under and by virtue of the contract, as shall be considered necessary by CITY, may be retained by CITY until disposition has been made of such actions or claims for damage as aforesaid.

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7. **NONDISCRIMINATION:** No discrimination shall be made in the employment of persons upon public works because of the race, color, sex, sexual preference, sexual orientation, or religion of such persons, and every contractor for public works violating this section is subject to all the penalties imposed for a violation of Division 2, Part 7, Chapter 1 of the Labor Code in accordance with the provisions of § 1735 of said Code.

8. **INELIGIBLE SUBCONTRACTORS:** The CONTRACTOR shall be prohibited from performing work on this project with a subcontractor who is ineligible to perform on the project pursuant to § 1777.1 and § 1777.7 of the Labor Code.

9. **CONTRACT PRICE AND PAYMENT:** CITY shall pay to the CONTRACTOR for furnishing the material and doing the prescribed work the unit prices set forth in accordance with CONTRACTOR's Proposal dated **May 9, 2019**.

10. **ATTORNEYS' FEES:** In the event that any action or proceeding is brought by either party to enforce any term or provision of this Agreement, the prevailing party shall recover its reasonable attorneys' fees and costs incurred with respect thereto.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly executed with all the formalities required by law on the respective dates set forth opposite their signatures.

CONTRACTOR

CITY

Gentry Brothers, Inc.
384 Live Oak Ave.
Irwindale, CA. 91706

CITY OF MONTLAIR, CALIFORNIA

By: _____

Javier "John" Dutrey
Mayor

Name & Title

ATTEST:

By: _____

Andrea M. Phillips
City Clerk

Name & Title

APPROVED AS TO FORM:

Diane E. Robbins
City Attorney



AGENDA REPORT

DATE: MAY 20, 2019 **FILE I.D.:** STG350/FLP175/FLP180
SECTION: RESOLUTIONS **DEPT.:** FINANCE
ITEM NO.: 1 **PREPARER:** D. PARKER
SUBJECT: CONSIDER ADOPTION OF RESOLUTION NOS. 19-3237 AND 19-3238 ESTABLISHING PROPOSED SCHEDULES OF TOTAL MONTHLY RATES FOR REFUSE AND SEWER PROGRAM SERVICES, SUBJECT TO THE PROPOSITION 218 NOTIFICATION, PROTEST, AND PUBLIC HEARING PROCESS

CONSIDER AUTHORIZING STAFF TO SEND NOTICES TO PROPERTY OWNERS REGARDING A PUBLIC HEARING TO CONSIDER ESTABLISHING MAXIMUM MONTHLY RESIDENTIAL AND COMMERCIAL RATE CAPS FOR SOLID WASTE DISPOSAL SERVICES, PURSUANT TO THE REQUIREMENTS OF PROPOSITION 218

CONSIDER SETTING A PROPOSITION 218 PUBLIC HEARING FOR JULY 15, 2019, AT 7:00 P.M. IN THE CITY COUNCIL CHAMBERS TO CONSIDER ESTABLISHING A FIVE-YEAR SCHEDULE OF MAXIMUM MONTHLY RATE CAPS FOR REFUSE AND SEWER SERVICES

CONSIDER ALLOCATING UP TO \$12,000 FROM THE CONTINGENCY FUND TO MAIL TO PROPERTY OWNERS NOTICES OF A PROPOSITION 218 PUBLIC HEARING REGARDING ESTABLISHING A FIVE-YEAR SCHEDULE OF MAXIMUM MONTHLY RATE CAPS FOR REFUSE AND SEWER SERVICES

CONSIDER SETTING A PUBLIC HEARING FOR JULY 15, 2019, AT 7:00 P.M. IN THE CITY COUNCIL CHAMBERS TO CONSIDER SETTING RATES FOR RESIDENTIAL AND COMMERCIAL REFUSE SERVICES, EFFECTIVE JULY 1, 2019

REASON FOR CONSIDERATION: The City of Montclair provides a number of property-related services to the community including the disposal of refuse and the operation and maintenance of a sewer system. The cost of providing these services is charged to ratepayers/property owners. The City Council may consider adjustments to the rates for property-related services; however, such rate adjustments are subject to the Proposition 218 notification, protest, and hearing requirements. The City has reached the maximum limit it can charge ratepayers/property owners for sewer and refuse services. To increase sewer and refuse rates beyond the current caps, the City Council is required to engage in the Proposition 218 notification, protest, and hearing process.

BACKGROUND: The City of Montclair, through its contract solid waste hauler, Burrtec Waste Industries, Inc. (Burrtec), provides for the disposal of residential refuse. Services include the weekly pickup of solid waste, greenwaste, organic waste, and recyclables; on-demand pickup of large items; and neighborhood cleanup services.

The City also provides for a variety of sewage-related programs: Services include the treatment and collection of sewage/wastewater on demand 24 hours per day, 7 days per week, 365 days per year; sewer system maintenance; and sewer system infrastructure improvements. The City of Montclair maintains the sewer system; the

Inland Empire Utilities Agency (IEUA), an independent agency, provides for the treatment of sewage.

Provision of the above utilities is essential to providing Montclair residents with a safe, healthy, and habitable community.

Proposition 218 Hearing Requirement

In order to proceed with rate adjustments for sewer and solid waste services, the City is required to conduct a Proposition 218 hearing to establish a five-year period of maximum rate caps. The requirement to conduct a Proposition 218 public hearing on refuse rates was confirmed on July 24, 2006, when the California Supreme Court published its decision in Bighorn–Desert View Water Agency v. Beringson, addressing the property-related-fee provisions of Proposition 218. In its decision, the Court ruled that where a rate is set by a government agency, it is a "property-related" fee subject to the public hearing requirements of Proposition 218. City Council approved a five-year schedule of maximum rate caps for sewer and refuse services on June 17, 2013 and January 21, 2014, respectively.

Government Code Section 53756

In addition to complying with the Proposition 218 public hearing process, municipal agencies are required to comply with Government Code Section 53756, which provides that an agency providing... sewer or refuse collection service may adopt a schedule of fees or charges authorizing automatic adjustments that pass through increases...if it complies with all of the following:

- a. Adopts the schedule of fees or charges for a property-related service for a period not to exceed five years.
- b. The schedule of fees may include a schedule of adjustment, including a clearly defined formula for adjusting for inflation, not to exceed the cost of providing that service.
- c. Notice of any adjustment pursuant to the schedule shall be given not less than 30 days before the effective date of the adjustment.

Proposition 218 Public Hearing Process

Article XIII D, Section 6(a) of the State Constitution (Proposition 218–1996), passed by the voters of California on November 5, 1996, requires municipalities to give detailed written notice to the owners of parcels upon which proposed fees or charges are to be applied.

- a. A public hearing shall be conducted not less than 45 days after mailing of the notice.

If written protests against a proposed fee or charge are presented by a majority of owners of the parcels, the fee adjustment shall not be implemented.

- b. If a majority protest is not received, the rate cap shall go into effect without further action.
- c. Written protests can be provided to the City in advance of the date set for a public hearing.

The date recommended for the public hearing before the City Council is Monday, July 15, 2019, at 7:00 p.m., in the Montclair City Council Chambers. City staff and representatives from Burrtec will be available at the public hearing to respond to questions.

Solid Waste Disposal Services

Pursuant to Title 6, Section 6.16.050 of the Montclair Municipal Code, the City Council may, from-time-to-time, consider adjustments to rates for solid waste disposal services.

Burrtec, the City's franchise solid waste hauler, is seeking an adjustment to residential and commercial refuse rates. Proposed rate adjustments include new fees for recycling and sanitation to comply with state law mandates, provide enhanced service levels to the community, establish a new multi-family commercial rate, and provide commercial operators with a range of optional services.

Residential Refuse Rates

Agreement No. 18-26, by and between Burrtec Waste Industries (Burrtec) and the City of Montclair, provides for the annual adjustment of residential refuse service rates by a percentage increase not to exceed the *All Cities Consumer Price Index (CPI) for the Los Angeles-Riverside-Orange Co. Area, All-Items Indexes, All Urban Consumers*, for the previous 12 months ending in January.

Burrtec last requested and received an adjustment to the residential refuse rate with an effective date of March 1, 2018. The proposed adjustment stemmed from two components: (1) a 4.16 percent increase in refuse service costs related to CPI adjustments since January 2016, and (2) a 2.82 percent increase attributed to increased costs for recyclable and green waste processing and disposal fees. **This was the only residential refuse service rate increases to Montclair residents since establishment of the previous Proposition 218 maximum rate schedule adopted in January 2014.**

Burrtec is currently requesting a 9.34 percent rate adjustment with an effective date on or about July 1, 2019. The proposed adjustment stems from two components: (1) a 3.80 percent increase in refuse service costs related to CPI adjustments since January 2018, and (2) the remainder of the increase attributed to increased costs for recyclable and green waste processing and disposal fees. The largest portion of increased costs relates to recycling processing and disposal due to the inability to dispose of these materials internationally. Previously, foreign markets would purchase the recycling materials; however, they are no longer accepting these due to environmental concerns which have closed their processing plants. Accordingly, the City Council is requested to:

1. Authorize noticing property owners of a Proposition 218 public hearing for Monday, July 15, 2019; and
2. Consider adopting Resolution No. 19-3237, establishing a proposed maximum five-year schedule of rates for residential refuse services.

Residential Refuse Rate: Five-Year Schedule of Maximum Rate Caps

The proposed five-year schedule of rates is based on the terms and conditions contained in Agreement No. 18-26.

Table 2, attached as **Appendix 1**, reflects the proposed schedule of maximum refuse rates that can be assessed to residential ratepayers for the five-year rate period that runs from July 1, 2019 through July 1, 2023. **At no time during each of the annual rate periods can refuse rates exceed the applicable maximum monthly rate cap for the effective year.** If a request for refuse rate increases exceeds the effective maximum monthly rate cap for the applicable year, a new Proposition 218 public hearing would be required.

Proposed maximum residential refuse rate caps are based on a five percent per annum adjustment, pursuant to Agreement No. 18-26.

Maximum residential refuse rate caps are not an indication of actual monthly residential refuse rates. The City of Montclair only increased residential refuse rates once during the previous five years and that increase was well below maximum refuse rate caps, and well below authorized increases pursuant to Agreement No. 18-26.

Proposed Residential Refuse Rates Effective July 1, 2019

Concurrent with the request to conduct a Proposition 218 public hearing on July 15, 2019 to consider establishing a five-year schedule of maximum residential refuse rate caps, City staff anticipates asking Council to consider a proposed schedule of residential refuse rates effective on or about July 1, 2019.

For information purposes only, as this is to be considered at the July 15, 2019 public hearing: Following is a discussion of components that constitute the monthly residential refuse rate and proposed cost adjustments for each rate component:

- ***Refuse Service Rate:*** The refuse service rate represents that portion of the rate paid to Burrtec for collecting and transporting refuse to the Materials Recovery Facility (MRF). The City's Agreement with Burrtec allows the refuse service rate to be adjusted each year by the CPI, not to exceed 5 percent annually. Burrtec is requesting a service rate adjustment of \$0.58, from \$11.98 to \$12.56.
- ***Landfill Rate:*** The landfill rate represents a pass-through of actual transportation and tipping fees paid by Burrtec. Currently, refuse generated in Montclair is transported from Burrtec's MRF in Fontana to several landfills within Burrtec's network of landfill disposal sites throughout Southern California. The rate is adjusted by a formula agreed upon in Agreement No. 18-26. There is no anticipated increase in the tipping fee; however, the cost to pick up and transport refuse to landfills has increased significantly, partly because of high diesel fuel prices. Burrtec is requesting a \$0.58 adjustment in the landfill rate from \$4.68 to \$5.26.
- ***Recycling Service Rates:*** The recycling service rate represents the cost of collecting and transporting recyclables to the MRF. A service rate adjustment of \$.13, from \$3.52 to \$3.65, is being proposed.
- ***Materials Recovery Facility Fee:*** The MRF component is affected by (1) the volume of recyclables processed; (2) the amount of refuse (contamination) found in the recyclables; and (3) the market value of recycled commodities over the preceding 12 months.

Pursuant to AB 341, all cities in the state must reach a 75 percent landfill recovery rate by 2020. As such, the amount of recyclable commodities that Burrtec is able to collect and process has increased significantly as a result of state law. The recent growth in the volume of recyclables has produced a downward trend in commodity prices and currently foreign outlet have stopped accepting recyclables. Burrtec's cost of processing and disposing of recyclables has risen from \$.75 per ton to \$37.52 per ton. Therefore, Burrtec is proposing a \$1.01 adjustment in the MRF rate from \$.01 to \$1.02.

In the past, Burrtec's operations had produced a credit and City staff recommended that the Materials Recovery Facility Fee credit be passed onto the rate payer. However, with current increases in costs to dispose of these materials, due to the elimination of foreign markets, the ability to produce a credit has gone away and additional costs have been incurred.

- *Greenwaste Disposal:* The Greenwaste Disposal Fee represents a pass-through of actual transportation and tipping fees paid by Burrtec. Increases for this rate component are typically tied to increases in fuel prices and tipping fees, and decreases in commodity volume.

The formula used to calculate the greenwaste component is essentially based on disposal volume plus the disposal charge per ton. Burrtec's disposals costs for this have risen from \$42.95 per ton to \$49.45 per ton. Therefore, Burrtec is proposing a \$0.42 increase in this cost component, from \$1.67 to \$2.09.

- *Household Hazardous Waste Fee:* The City has an agreement with the County of San Bernardino to provide household hazardous waste disposal facilities.

Disposal facilities are located at the following locations:

5050 Schaefer Avenue, Chino
1408 East Francis Street, Ontario
1370 North Benson Avenue, Upland

Montclair residents may dispose of hazardous waste at no charge at the time of disposal, and are annually assessed approximately \$5.40 per household (\$0.45 monthly). The Household Hazardous Waste Fee is based on the actual cost charged to the City by San Bernardino County, and is intended as a pass-through cost to each ratepayer. **There has been no adjustment in the Household Hazardous Waste Fee component and no adjustment of Burrtec fees is requested at this time.**

- *General Sanitation Fee:* The general sanitation fee is a rate component assessed to residential ratepayers to reimburse for a portion of the City costs related to general community maintenance issues including graffiti abatement, alleyway maintenance, illegal dumping, property cleanup, sanitation services, and removal of abandoned bulky items in neighborhoods and alleyways. Since adoption of the General Sanitation Fee in 2011, the service charge has remained below the actual/estimated cost of service. **There is no anticipated adjustment in the General Sanitation Fee component for Fiscal Year 2019-2020.** The current monthly assessment per household is \$2.82.
- *Administrative Fee:* The Administrative Fee is a charge imposed by the City to reimburse for the cost of administering the refuse service program—the current fee is \$3.99 per month. Service charges should approximate the actual/estimated

cost of service. **There is no anticipated adjustment in the General Sanitation Fee component for Fiscal Year 2019–2020.**

Table 1 on the following page identifies cost components of Montclair's *Total Monthly Household Refuse Rate* including current and proposed rates—proposed monthly residential refuse rates will be considered at a public hearing scheduled for July 15, 2019.

Table 1 also indicates that adoption of proposed Resolution No. 19–3237 would increase the *Total Monthly Household Refuse Rate* from \$29.12 to \$31.84, an increase of \$2.72. Senior households would continue to be charged a refuse rate that is 20 percent below the monthly refuse fee for nonsenior households—the monthly senior household rate would increase from \$23.30 to \$25.47, an increase of \$2.17.

**Table 1
Total Monthly Household Refuse Rate Components
Current and Proposed Residential Refuse Rates**

<i>Fee Components</i>	<i>Current</i>	<i>Proposed</i>
Refuse service rate	\$ 11.98	\$ 12.56
Recycling service rate	\$ 3.52	\$ 3.65
Refuse landfill/Transfer rate	\$ 4.68	\$ 5.26
MRF fees	\$.01	\$ 1.02
Greenwaste disposal rate	\$ 1.67	\$ 2.09
<i>Total cost of services—paid to Burrtec</i>	\$ 21.86	\$ 24.58
General sanitation fee	\$ 2.82	\$ 2.82
Administrative fee	\$ 3.99	\$ 3.99
Household Hazardous Waste fee	\$ 0.45	\$ 0.45
<i>Total monthly cost to provide refuse collection</i>	\$ 29.12	\$ 31.84
TOTAL MONTHLY HOUSEHOLD RATE	\$ 29.12	\$ 31.84
TOTAL MONTHLY SENIOR HOUSEHOLD RATE	\$ 23.30	\$ 25.47
Monthly City subsidy per senior household	\$ 5.82	\$ 6.37
<i>Miscellaneous:</i>		
<i>Extra Barrel: Refuse/Recycling/ Greenwaste</i>	\$ 5.78/\$1.31/ \$ 3.68	\$ 6.22/\$1.41/ \$ 3.96
<i>Large item collection: Monthly Burrtec charge—all City households; cost incorporated in administrative fee</i>	\$3,415.97	\$3,589.05

Senior Household Refuse Rate Subsidy Program

For information purposes only as this is to be considered at the July 15, 2019 public hearing:

Montclair currently provides a monthly refuse rate subsidy program for senior households—to qualify, accountholders must be age 65 or older, live at the residence, and the refuse account must be in the customer's name. The current monthly household refuse rate for senior households is \$23.30— a savings of \$5.82 off the current Total Monthly Household Refuse Rate of \$29.12; the proposed Senior Household rate of

\$25.47 effective on or about July 1, 2019, represents a savings of \$6.37 below the proposed Total Monthly Household Refuse Rate of \$31.84.

Continuation of a discount program for senior households was previously discussed by City Council— the City Council considered alternatives related to discounting refuse service rates and ultimately approved maintaining a 20 percent discount off the Total Monthly Household Refuse Rate until funds in the Refuse Impound Reserve Fund are depleted. The Refuse Impound Reserve Fund has now been depleted.

The subsidy program is not a rate discount off the Total Monthly Household Refuse Rate; rather, it is a General Fund subsidy that offsets the Total Monthly Household Refuse Rate currently charged to the households of non-senior residential refuse ratepayers. The General Fund subsidy is used to make full payment to Burrtec for refuse services provided to senior households.

Recognizing that the City Council is rightly concerned with the cost of refuse services for households on limited income, continuing a refuse-rate subsidy program for senior households may continue to be an appropriate course of action. To achieve this objective, the City Council, at its July 15, 2019, public hearing on proposed residential refuse rates, may consider maintaining the current 20 percent subsidy or direct City staff to reduce the subsidy to a lesser amount. However, in keeping with previous directions from City Council the intent was to migrate senior households to the standard monthly residential refuse rate.

It is apparent that passing on the full cost for refuse services to senior households effective July 1, 2019, would result in a significant monthly increase—\$6.37 based on the proposed monthly refuse rate currently under consideration. Instead, the City Council may elect to consider migrating senior households to the standard household refuse rate over the course of several years.

- Staff recommends continuing the practice of providing a 20 percent discount off the monthly residential refuse rate for senior households through the remainder of Fiscal Year 2018-19. Thereafter, beginning with Fiscal Year 2019-20, Council may direct staff to reduce the 20 percent discount for senior household as follows:
 - ✓ Fiscal Year 2019-20—reduce senior household refuse rate subsidy to 15 percent effective July 1, 2019
 - ✓ Fiscal Year 2020-21—reduce senior household refuse rate subsidy to 10 percent effective July 1, 2020
 - ✓ Fiscal Year 2021-22, reduce senior household refuse rate subsidy to 5 percent effective July 1, 2021
 - ✓ Fiscal Year 2022-23—eliminate senior household refuse rate subsidy effective July 1, 2022
- As an alternative to the proposed reduction to the senior household rate as indicated above, City Council may consider a more gradual reduction, as follows:
 - ✓ Fiscal Year 2019-20—reduce senior household refuse rate subsidy to 17.5 percent effective July 1, 2019
 - ✓ Fiscal Year 2020-21—reduce senior household refuse rate subsidy to 15 percent effective July 1, 2020

- ✓ Fiscal Year 2021–22—reduce senior household refuse rate subsidy to 12.5 percent effective July 1, 2021
- ✓ Fiscal Year 2022–23—reduce senior household refuse rate subsidy to 10 percent effective July 1, 2022
- ✓ Fiscal Year 2023–24—reduce senior household refuse rate subsidy to 8.5 percent effective July 1, 2023
- ✓ Fiscal Year 2024–25—reduce senior household refuse rate subsidy to 5 percent effective July 1, 2024
- ✓ Fiscal Year 2025–26—reduce senior household refuse rate subsidy to 2.5 percent effective July 1, 2025
- ✓ Fiscal Year 2026–27—eliminate senior household refuse rate subsidy effective July 1, 2026

If it is City Council’s intent to maintain a senior household refuse rate subsidy program, but at a lesser percentage, City staff recommends the City Council determine what the new subsidy rate would be and decrease it gradually by using one of the two reduction schedules recommended above.

Council Members are advised that in addition to a gradual reduction in the refuse rate discount, senior households would continue to be impacted by any increase in the standard household refuse rate, subject to the applicable subsidy rate in effect at time of implementation. Continuing the refuse rate subsidy program for senior households, as defined herein, would require an ongoing transfer of funds from the General Fund to the General Fund Subsidy Account for senior household refuse ratepayers.

Commercial Refuse Rates

Similar to the discussion for residential refuse rates, it is the City Attorney’s opinion that Proposition 218 requires a public hearing for commercial refuse rates.

The process related to conducting a Proposition 218 public hearing for commercial refuse rates is similar to the process followed for residential refuse rates.

Agreement No. 18–26 provides for annual adjustment of commercial refuse service rates by a percentage increase not to exceed the *All Cities Consumer Price Index (CPI) for the Los Angeles–Riverside–Orange County Area, All-Items Indexes, All Urban Consumers* for the previous 12 months ending in January.

Accordingly, the City Council is requested to:

1. Authorize noticing property owners of a Proposition 218 public hearing for Monday, July 15, 2019; and
2. Consider adopting Resolution No. 19–3237, establishing a proposed maximum five-year schedule of rates for commercial refuse services.

Commercial Refuse Rate: Five-Year Schedule of Maximum Rate Caps

The proposed five-year schedule of commercial rates is based on the terms and conditions contained in Agreement No. 18-26.

Table 2, attached as **Appendix 1** to this report reflects a comparison of the current and proposed commercial rates requested by Burrtec. **Commercial refuse rates cannot exceed the applicable maximum Proposition 218 monthly rate caps previously established by the City Council.** If a proposed commercial rate increase exceeds the effective maximum allowable monthly rate cap for the applicable year, it would either be denied or a new Proposition 218 public hearing would be required.

Maximum commercial refuse rate caps approved through the Proposition 218 process are not an indication of actual monthly commercial refuse rates. The City of Montclair typically does not increase commercial refuse rates on an annual basis, and adjustments, when they do occur, usually fall well below the maximum Proposition 218 rate cap for the applicable year and below authorized increases pursuant to Agreement No. 18-26.

For information purposes only as this is to be considered at the June 3, 2019 public hearing:

Following is a discussion of components that constitute the monthly commercial refuse rate and proposed cost adjustments for each rate component.

- *Service costs related to the provision of refuse services.* Service costs are subject to annual CPI adjustments pursuant to Agreement No. 18-26. Burrtec is requesting a 3.80 percent CPI adjustment for Commercial Rates.
- *Pass-through costs including a Greenwaste processing fee and/or the Landfill Disposal rate. Materials Recovery Facility Fee:* As indicated above, the MRF component is affected by (1) the volume of recyclables processed; (2) the amount of refuse (contamination) found in the recyclables; and (3) the market value of recycled commodities over the preceding 12 months.

Pursuant to AB 341, all cities in the state must reach a 75 percent landfill recovery rate by 2020. As such, the amount of recyclable commodities that Burrtec is able to collect and process has increased significantly as a result of state law. The recent growth in the volume of recyclables has produced a downward trend in commodity prices and currently foreign outlet have stopped accepting recyclables. The Disposal/Landfill rate for Commercial Bins and Roll-Offs is increasing from \$43.83 per ton to \$49.00 per ton and the Greenwaste rate is increasing from \$42.95 per ton to \$49.45 per ton.

- *Frequency Factor.* This component represents the number of times per week (or other designated period of days) that refuse is picked up for disposal. The frequency factor provides ratepayers with a graduating discount rate based on the number of times of service per week.
- *Bin Size.* Bins are provided in the following sizes: 1.5 yards (0.3250 tons); 2.0 yards 0.4333 tons); 3.0 yards (0.6500 tons); 3.0 yards/greenwaste (1.3000 tons); 3.0 yards compacted (1.9500 tons); and 4.0 yards/compacted (2.600 tons). Additionally, 95 and 65 gallon barrels are available. Bin/Barrel size, Disposal/Landfill, and Greenwaste disposal rates determine the monthly cost for this component.
- *Franchise Fee.* The franchise fee is an assessment against Burrtec for the exclusive right to be the primary solid waste hauler for the City of Montclair, and consists of a 10 percent fee of gross revenue derived from services to commercial,

institutional, and industrial premises, exclusive of revenue from sale of recyclable materials and disposal tip fees. **There is no increase in this fee component.**

- *Pavement Impact Fee.* The pavement impact fee is an assessment against Burrtec to compensate the City for damage done to pavement caused by heavy refuse disposal trucks owned and operated by Burrtec and their frequent and regular use of City roads. This rate component consists of a 3.5 percent fee of gross revenue from services to commercial, institutional, and industrial premises, exclusive of revenue from sale of recyclable materials and disposal tip fees. **There is no increase in this fee component.**
- *Recycling Fee.* The recycling fee is increasing from \$2.38 per cubic yard to \$2.89 per cubic yard. The new rate of \$2.89 per cubic yard would result in a monthly fee of \$37.57, based on a typical 3-Yard Bin Size, at a frequency rate of once per week.
- *General Sanitation Fee.* The General Sanitation Fee remains at \$0.40 per yard, and is multiplied by the collection frequency per month for commercial refuse accounts. The General Sanitation Fee for commercial refuse accounts is designed to contribute toward the cost of general community maintenance issues including graffiti abatement, alleyway maintenance, illegal dumping, property cleanup, sanitation services, and removal of abandoned bulky items in neighborhoods and alleyways. **There is no increase in this fee component.**
- Legislation has mandated the requirement to recycle food waste in addition to other recyclables. Since this requirement has become mandatory, the commercial food waste recycling program has been included for the purpose of establishing a maximum rate cap under Proposition 218.

Elective Refuse Service Fees

Burrtec is proposing a category of elective refuse services for commercial ratepayers, for an additional cost.

Proposed elective services include the following:

- ✓ Extra Bin Pickup
- ✓ Locking Containers
- ✓ Steam Cleaning
- ✓ Bulky Item Trip
- ✓ Bulky Item Pickup
- ✓ Relocation Fee of Roll-Off Containers Rental Fee
- ✓ Rental Fee

Elective Service Fees would only be charged to commercial accounts voluntarily agreeing to access available elective services.

Refuse Rate Comparisons

A rate survey of neighboring cities was conducted to compare residential and commercial refuse service levels and fee structures, and to better comprehend what other cities in the area charge. Burrtec provided rate information for those cities that contract with Burrtec for refuse services.

While the refuse rate comparison established a sense of position within the range of refuse rates among neighboring cities, it did not establish a clear comparison of cost components

within the surveyed cities. Rate Comparisons attached as **Appendix 2** include comparisons by service and by total rate.

Comparative surveys do not typically offer clarity as to the cost of providing refuse rates; rather, such comparisons provide a simple tool for showing existing refuse rate ranges for comparable types of services. The following are significant factors when conducting rate comparisons:

- ✓ Many cities are presently in the process of negotiating their refuse agreements with Burrtec; therefore, cities that have completed that process will typically have higher refuse rates in comparison to other cities that are presently in that process. As a result, some cities may have refuse rates that may seem substantially high in comparison to other cities.

Of the Burrtec agencies surveyed the cities of Grand Terrace, Colton and Rialto were presently undergoing rate negotiations. The other Burrtec cities are in the approval process of adjusting their refuse rates.

- ✓ Cities do not typically publish or identify refuse rate components. Instead, they simply state the total fee for commercial and residential refuse rates. As such, it is difficult to identify what the rate components are for commercial and residential refuse rates. Some cities may incorporate a variety of rate components within their monthly refuse rate including but not limited to administration fees, street sweeping, sanitation fees, recycling fees, greenwaste fees, and pavement impact fees. As more and more cities begin to examine the rate structures used by neighboring communities, the use of varied rate components is becoming commonplace.
- ✓ Services included in various refuse rates are typically structured differently in each city, thereby making direct comparisons unreliable. For example, some cities may charge a general sanitation fee that covers graffiti abatement and street cleaning; while another city may charge a sanitation fee that only covers bulky item pick-up. As such, it is difficult to compare services provided by refuse haulers.
- ✓ Not all cities provide tiered refuse rates such as Non-senior and Senior Residential Refuse Rates. While some cities may offer a two-tiered system, the formula by which the rate is subsidized is oftentimes unknown.
- ✓ Economies of scale greatly affect the refuse service rate for cities. Typically, cities with much larger populations that produce vast amounts of refuse are provided much lower refuse service rates—a factor attributed to the lower cost per unit to provide refuse service. Examples include the cities of Rancho Cucamonga, Upland, and Rialto. These cities have significantly larger populations and produce a higher volume of refuse in comparison to Montclair. Cities with smaller populations and producing small amounts of refuse tend to have higher refuse service rates, based on the higher cost per unit to provide refuse services.

Sewer Maintenance Rates

Chapter 9.20 of the Montclair Municipal Code provides for the design, construction, alteration, use, maintenance, and replacement of the City Sewer System and the collection of appropriate fees that provide for the maximum beneficial use of the City Sewer System, groundwater resources, effluent-receiving waterways, wastewater discharges, and improvements/maintenance of the sewer system.

Revenues to support the City's sewer infrastructure and Sewer Maintenance Program derive from the Equivalent Dwelling Unit (EDU)—a fee structure imposed by the Inland Empire Utilities Agency (IEUA) and the City of Montclair with various fee components that

support sewage treatment and sewer maintenance. Montclair ratepayers currently pay \$27.11 per month per EDU—known as the "Total Monthly EDU Rate."

Components of the EDU fee structure include the following:

1. Sewage treatment: The treatment of sewage effluent flowing through the sewer system—provided by IEUA.
2. Sewer maintenance: The maintenance of the sewer system which collects and transports sewage for treatment—provided by the City of Montclair.
3. Infrastructure replacement/rehabilitation: Long-term replacement and rehabilitation of deteriorating sections of the City's sewer system—provided by the City of Montclair.

The largest cost component of the current *Total Monthly EDU Rate* (\$18.89 per month per EDU) goes to the IEUA for sewage treatment-related costs. The remaining balance of \$8.22 per month per EDU goes to the City to pay for all Sewer Program services, personnel, capital outlay, infrastructure improvement and maintenance including the annual cleaning of each sewer line, the purchase of necessary equipment to perform maintenance, and the preparation and submission of various reports and studies to demonstrate compliance with regulatory requirements.

The City last conducted a public hearing to establish sewer rates in 2013. The maximum rates established at that time were for a five-year period, terminating in June 2018.

In 2016, IEUA adopted sewage treatment rates for a five-year period effective October 1, 2015, through June 30, 2020. The IEUA rate specified for Fiscal Year 2019-20 is \$20.00 per EDU. Staff has also analyzed maintenance costs for the past few years and projected anticipated maintenance costs and required rates for the next five years as well.

Table 3 below shows current and proposed rates. The proposed rate caps are not necessarily the actual rates that will be recommended for adoption in later fiscal years. Part 1 Fees will be set at the amounts eventually adopted by the IEUA Board of Directors. Part 2 Fees will be determined each year based on previous years' expenditures and projected needs. Part 3 Fees will likely remain constant.

**Table 3
Current & Proposed Sewer Rates**

<u>Effective Date</u>	<u>Part 1 Fee</u>	<u>Part 2 Fee</u>	<u>Part 3 Fee</u>	<u>Total</u>
Current	\$ 18.89	\$ 6.72	\$ 1.50	\$ 27.11
Proposed:				
07/01/19	\$ 20.00	\$ 7.06	\$ 1.50	\$ 28.56
07/01/20	\$ 21.00	\$ 7.41	\$ 1.50	\$ 29.91
07/01/21	\$ 22.05	\$ 7.78	\$ 1.50	\$ 31.33
07/01/22	\$ 23.15	\$ 8.17	\$ 1.50	\$ 32.82
07/01/23	\$ 24.31	\$ 8.58	\$ 1.50	\$ 34.39

The proposed rates are maximum caps that cannot be exceeded without an additional Proposition 218 hearing and approval by the City Council.

Conclusion

Based on the above analysis, staff requests authorization to proceed and comply with Proposition 218 notification and public hearing requirements.

Current and proposed rates effective on or about July 1, 2019 and proposed five-year maximum rate caps for commercial and residential refuse services are contained in **Table 2**, attached as **Appendix 1** and maximum rate caps for sewer services are presented in **Table 3**, above.

Proposed refuse and sewer rate caps:

1. Comply with Proposition 218 notification/hearing requirements.
2. Proposed year-to-year rate caps typically reflect a 5 percent CPI adjustment over the previous year.

It is anticipated that proposed maximum rate caps would avoid triggering Proposition 218 requirements during the proposed five-year schedule of maximum rates for refuse and sewer accounts.

To achieve full compliance with Proposition 218 notification and hearing requirements, approximately 8,200 notifications would be mailed to property owners, advising of the following:

1. Date of public hearing before the City Council
2. Maximum proposed rate caps
3. Computation formula
4. Proposed refuse and sewer rates effective on or about July 1, 2019

FISCAL IMPACT: Increasing maximum rate caps for residential and commercial refuse service would allow the City to meet its contractual obligations with Burrtec to apply CPI-related increases and other cost-related components without triggering Proposition 218 hearings each time a rate adjustment is considered; provided total rate adjustments do not exceed respective, maximum Proposition 218 rate caps for the applicable year in which they are proposed to go into effect.

Increasing maximum rate caps for sewer services would allow the City to meet its obligation to IEUA for sewage processing and provide for sewer system maintenance and replacement without triggering Proposition 218 hearings each time a rate adjustment is considered; provided total rate adjustments do not exceed respective, maximum Proposition 218 rate caps for the applicable year in which they are proposed to go into effect.

The cost to comply with Proposition 218 notification and hearing requirements is not expected to exceed \$12,000.

RECOMMENDATION: Staff recommends the City Council consider the following actions:

1. Adopt Resolution Nos. 19-3237 and 19-3238 establishing proposed schedules of total monthly rates for Refuse and Sewer Program services subject to the Proposition 218 notification, protest, and hearing process.
2. Authorize staff to send notices to property owners regarding a public hearing to consider proposed maximum monthly rate caps for sewer and solid waste disposal services, pursuant to the requirements of Proposition 218.
3. Set a Proposition 218 public hearing for Monday, July 15, 2019, at 7:00 p.m. in the City Council Chambers to consider establishing a five-year schedule of maximum monthly rate caps for refuse and sewer services.
4. Authorize an allocation of up to \$12,000 from the Contingency Reserve Fund to mail property owners notices of a proposition 218 public hearing regarding establishing a five-year schedule of maximum monthly rate caps for refuse and sewer services.
5. Set a public hearing for Monday, July 15, 2019, at 7:00 p.m. in the City Council Chambers to consider setting rates for refuse and sewer services, effective on or about July 1, 2019.

Table 2
Maximum Proposed Monthly Refuse Rates

Residential						
<i>Service/Size/Pickup</i>	<i>Current</i>	<i>Effective July 1,</i>				
		<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>2023</i>
Household Rate	\$ 29.12	\$ 31.84	\$ 33.43	\$ 35.10	\$ 36.86	\$ 38.70
Extra Barrel - Refuse	\$ 5.78	\$ 6.22	\$ 6.53	\$ 6.86	\$ 7.20	\$ 7.56
Extra Barrel - Recycling	\$ 1.31	\$ 1.41	\$ 1.48	\$ 1.55	\$ 1.63	\$ 1.71
Extra Barrel - Green Waste	\$ 3.68	\$ 3.96	\$ 4.16	\$ 4.37	\$ 4.59	\$ 4.82
Extra Pick-Up - Res. Barrel	\$ 15.57	\$ 16.17	\$ 16.98	\$ 17.83	\$ 18.72	\$ 19.66
Bin 1.5/Frequency 1	\$ 114.01	\$ 123.57	\$ 129.75	\$ 136.24	\$ 143.05	\$ 150.20
Bin 1.5 Recycling (Extra)	\$ 68.52	\$ 77.50	\$ 81.38	\$ 85.45	\$ 89.72	\$ 94.21
Commercial						
<i>Service/Size/Pickup</i>	<i>Current</i>	<i>Effective July 1,</i>				
		<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>2023</i>
Multifamily Commercial:						
Barrel	\$ 27.62	\$ 31.18	\$ 32.74	\$ 34.38	\$ 36.10	\$ 37.91
Bin 1.5/Frequency 1	\$ 125.98	\$ 134.47	\$ 141.19	\$ 148.25	\$ 155.66	\$ 163.44
Bin 1.5/Frequency 2	\$ 236.64	\$ 255.70	\$ 268.49	\$ 281.91	\$ 296.01	\$ 310.81
Bin 1.5/Frequency 3	\$ 347.25	\$ 376.31	\$ 395.13	\$ 414.89	\$ 435.63	\$ 457.41
Bin 2.0/Frequency 1	\$ 147.70	\$ 159.50	\$ 167.48	\$ 175.85	\$ 184.64	\$ 193.87
Bin 2.0/Frequency 2	\$ 268.03	\$ 300.59	\$ 315.62	\$ 331.40	\$ 347.97	\$ 365.37
Bin 2.0/Frequency 3	\$ 390.71	\$ 440.91	\$ 462.96	\$ 486.11	\$ 510.42	\$ 535.94
Bin 3.0/Frequency 1	\$ 208.75	\$ 228.61	\$ 240.04	\$ 252.04	\$ 264.64	\$ 277.87
Bin 3.0/Frequency 2	\$ 352.80	\$ 408.57	\$ 429.00	\$ 450.45	\$ 472.97	\$ 496.62
Bin 3.0/Frequency 3	\$ 499.60	\$ 587.66	\$ 617.04	\$ 647.89	\$ 680.28	\$ 714.29
Bin 3.0/Frequency 4	\$ 646.42	\$ 766.02	\$ 804.32	\$ 844.54	\$ 886.77	\$ 931.11
Bin 3.0/Frequency 5	\$ 793.21	\$ 945.07	\$ 992.32	\$ 1,041.94	\$ 1,094.04	\$ 1,148.74
Bin 3.0/Frequency 6	\$ 940.04	\$ 1,124.11	\$ 1,180.32	\$ 1,239.34	\$ 1,301.31	\$ 1,366.38
Commercial with Recycling:						
Barrel - 95 Gal/Frequency 1	\$ 36.03	\$ 38.76	\$ 40.70	\$ 42.74	\$ 44.88	\$ 47.12
Barrel - 95 Gal/Frequency 2	\$ 59.98	\$ 67.57	\$ 70.95	\$ 74.50	\$ 78.23	\$ 82.14
Barrel - 95 Gal/Frequency 3	\$ 84.90	\$ 96.06	\$ 100.86	\$ 105.90	\$ 111.20	\$ 116.76
Barrel - 95 Gal/Frequency 4	\$ 109.84	\$ 124.50	\$ 130.73	\$ 137.27	\$ 144.13	\$ 151.34
Barrel - 95 Gal/Frequency 5	\$ 134.77	\$ 152.96	\$ 160.61	\$ 168.64	\$ 177.07	\$ 185.92
Barrel - 95 Gal/Frequency 6	\$ 159.70	\$ 181.43	\$ 190.50	\$ 200.03	\$ 210.03	\$ 220.53
Bin 1.5/Frequency 1	\$ 118.92	\$ 127.70	\$ 134.09	\$ 140.79	\$ 147.83	\$ 155.22
Bin 1.5/Frequency 2	\$ 222.76	\$ 239.73	\$ 251.72	\$ 264.31	\$ 277.53	\$ 291.41
Bin 1.5/Frequency 3	\$ 329.06	\$ 354.35	\$ 372.07	\$ 390.67	\$ 410.20	\$ 430.71
Bin 1.5/Frequency 4	\$ 412.46	\$ 462.07	\$ 485.17	\$ 509.43	\$ 534.90	\$ 561.65
Bin 1.5/Frequency 5	\$ 504.72	\$ 566.18	\$ 594.49	\$ 624.21	\$ 655.42	\$ 688.19
Bin 1.5/Frequency 6	\$ 597.03	\$ 670.30	\$ 703.82	\$ 739.01	\$ 775.96	\$ 814.76
Bin 2.0/Frequency 1	\$ 139.04	\$ 150.00	\$ 157.50	\$ 165.38	\$ 173.65	\$ 182.33
Bin 2.0/Frequency 2	\$ 257.36	\$ 279.36	\$ 293.33	\$ 308.00	\$ 323.40	\$ 339.57
Bin 2.0/Frequency 3	\$ 374.43	\$ 409.18	\$ 429.64	\$ 451.12	\$ 473.68	\$ 497.36
Bin 2.0/Frequency 4	\$ 471.60	\$ 533.73	\$ 560.42	\$ 588.44	\$ 617.86	\$ 648.75
Bin 2.0/Frequency 5	\$ 578.53	\$ 655.62	\$ 688.40	\$ 722.82	\$ 758.96	\$ 796.91
Bin 2.0/Frequency 6	\$ 685.51	\$ 777.59	\$ 816.47	\$ 857.29	\$ 900.15	\$ 945.16
Bin 3.0/Frequency 1	\$ 197.47	\$ 213.45	\$ 224.12	\$ 235.33	\$ 247.10	\$ 259.46
Bin 3.0/Frequency 2	\$ 336.54	\$ 376.84	\$ 395.68	\$ 415.46	\$ 436.23	\$ 458.04
Bin 3.0/Frequency 3	\$ 474.71	\$ 539.85	\$ 566.84	\$ 595.18	\$ 624.94	\$ 656.19
Bin 3.0/Frequency 4	\$ 613.39	\$ 702.72	\$ 737.86	\$ 774.75	\$ 813.49	\$ 854.16
Bin 3.0/Frequency 5	\$ 752.06	\$ 865.53	\$ 908.81	\$ 954.25	\$ 1,001.96	\$ 1,052.06
Bin 3.0/Frequency 6	\$ 890.76	\$ 1,029.09	\$ 1,080.54	\$ 1,134.57	\$ 1,191.30	\$ 1,250.87
Temp. 3.0/ 7 Days Frequency 1	\$ 97.02	\$ 111.15	\$ 116.71	\$ 122.55	\$ 128.68	\$ 135.11

Table 2 (Continued)

Maximum Proposed Monthly Refuse Rates

Commercial						
<i>Service/Size/Pickup</i>	<i>Current</i>	<i>Effective July 1,</i>				
		<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>2023</i>
Commercial Greenwaste:						
Bin 3.0/Frequency 1	\$ 173.27	\$ 184.12	\$ 193.33	\$ 203.00	\$ 213.15	\$ 223.81
Bin 3.0/Frequency 2	\$ 295.33	\$ 315.06	\$ 330.81	\$ 347.35	\$ 364.72	\$ 382.96
Bin 3.0/Frequency 3	\$ 417.45	\$ 446.06	\$ 468.36	\$ 491.78	\$ 516.37	\$ 542.19
Bin 3.0/Frequency 4	\$ 539.52	\$ 577.01	\$ 605.86	\$ 636.15	\$ 667.96	\$ 701.36
Bin 3.0/Frequency 5	\$ 661.61	\$ 707.95	\$ 743.35	\$ 780.52	\$ 819.55	\$ 860.53
Bin 3.0/Frequency 6	\$ 783.69	\$ 838.93	\$ 880.88	\$ 924.92	\$ 971.17	\$ 1,019.73
Commercial Compacted:						
Bin 3.0/Frequency 1	\$ 255.75	\$ 278.93	\$ 292.88	\$ 307.52	\$ 322.90	\$ 339.05
Bin 3.0/Frequency 2	\$ 461.16	\$ 505.08	\$ 530.33	\$ 556.85	\$ 584.69	\$ 613.92
Bin 3.0/Frequency 3	\$ 665.76	\$ 730.87	\$ 767.41	\$ 805.78	\$ 846.07	\$ 888.37
Bin 3.0/Frequency 4	\$ 870.31	\$ 956.64	\$ 1,004.47	\$ 1,054.69	\$ 1,107.42	\$ 1,162.79
Bin 3.0/Frequency 5	\$ 1,074.87	\$ 1,182.42	\$ 1,241.54	\$ 1,303.62	\$ 1,368.80	\$ 1,437.24
Bin 3.0/Frequency 6	\$ 1,280.28	\$ 1,408.56	\$ 1,478.99	\$ 1,552.94	\$ 1,630.59	\$ 1,712.12
Bin 4.0/Frequency 1	\$ 883.78	\$ 970.64	\$ 1,019.17	\$ 1,070.13	\$ 1,123.64	\$ 1,179.82
Commercial Recycling (Extra):						
Bin 1.5/Frequency 1	\$ 79.39	\$ 88.78	\$ 93.22	\$ 97.88	\$ 102.77	\$ 107.91
Bin 1.5/Frequency 2	\$ 144.94	\$ 162.76	\$ 170.90	\$ 179.45	\$ 188.42	\$ 197.84
Bin 1.5/Frequency 3	\$ 210.52	\$ 237.18	\$ 249.04	\$ 261.49	\$ 274.56	\$ 288.29
Bin 2.0/Frequency 1	\$ 86.18	\$ 97.66	\$ 102.54	\$ 107.67	\$ 113.05	\$ 118.70
Bin 2.0/Frequency 2	\$ 152.34	\$ 174.49	\$ 183.21	\$ 192.37	\$ 201.99	\$ 212.09
Bin 2.0/Frequency 3	\$ 218.44	\$ 251.31	\$ 263.88	\$ 277.07	\$ 290.92	\$ 305.47
Bin 3.0/Frequency 1	\$ 118.43	\$ 135.22	\$ 141.98	\$ 149.08	\$ 156.53	\$ 164.36
Bin 3.0/Frequency 2	\$ 185.68	\$ 217.28	\$ 228.14	\$ 239.55	\$ 251.53	\$ 264.11
Bin 3.0/Frequency 3	\$ 252.95	\$ 299.36	\$ 314.33	\$ 330.05	\$ 346.55	\$ 363.88
Bin 3.0/Frequency 4	\$ 320.20	\$ 381.42	\$ 400.49	\$ 420.51	\$ 441.54	\$ 463.62
Bin 3.0/Frequency 5	\$ 387.43	\$ 463.47	\$ 486.64	\$ 510.97	\$ 536.52	\$ 563.35
Bin 3.0/Frequency 6	\$ 454.69	\$ 545.55	\$ 572.83	\$ 601.47	\$ 631.54	\$ 663.12
Commercial Food Waste						
Barrel - 65 Gal/Frequency 1	\$ 59.62	\$ 68.97	\$ 72.42	\$ 76.04	\$ 79.84	\$ 83.83
Barrel - 65 Gal/Frequency 2	\$ 108.12	\$ 126.30	\$ 132.62	\$ 139.25	\$ 146.21	\$ 153.52
Barrel - 65 Gal/Frequency 3	\$ 153.05	\$ 179.87	\$ 188.86	\$ 198.30	\$ 208.22	\$ 218.63
Barrel - 65 Gal/Frequency 4	\$ 198.29	\$ 233.76	\$ 245.45	\$ 257.72	\$ 270.61	\$ 284.14
Barrel - 65 Gal/Frequency 5	\$ 250.40	\$ 294.86	\$ 309.60	\$ 325.08	\$ 341.33	\$ 358.40
Barrel - 65 Gal/Frequency 6	\$ 288.29	\$ 341.01	\$ 358.06	\$ 375.96	\$ 394.76	\$ 414.50
Bin 1.5/Frequency 1	\$ 178.07	\$ 203.63	\$ 213.81	\$ 224.50	\$ 235.73	\$ 247.52
Bin 1.5/Frequency 2	\$ 310.13	\$ 358.97	\$ 376.92	\$ 395.77	\$ 415.56	\$ 436.34
Bin 1.5/Frequency 3	\$ 432.90	\$ 504.48	\$ 529.70	\$ 556.19	\$ 584.00	\$ 613.20
Bin 1.5/Frequency 4	\$ 554.46	\$ 648.75	\$ 681.19	\$ 715.25	\$ 751.01	\$ 788.56
Bin 1.5/Frequency 5	\$ 674.63	\$ 791.57	\$ 831.15	\$ 872.71	\$ 916.35	\$ 962.17
Bin 1.5/Frequency 6	\$ 795.09	\$ 934.66	\$ 981.39	\$ 1,030.46	\$ 1,081.98	\$ 1,136.08
Bin 2.0/Frequency 1	\$ 220.47	\$ 253.69	\$ 266.37	\$ 279.69	\$ 293.67	\$ 308.35
Bin 2.0/Frequency 2	\$ 398.82	\$ 463.15	\$ 486.31	\$ 510.63	\$ 536.16	\$ 562.97
Bin 2.0/Frequency 3	\$ 563.67	\$ 658.42	\$ 691.34	\$ 725.91	\$ 762.21	\$ 800.32
Bin 2.0/Frequency 4	\$ 729.72	\$ 854.97	\$ 897.72	\$ 942.61	\$ 989.74	\$ 1,039.23
Bin 2.0/Frequency 5	\$ 921.74	\$ 1,078.78	\$ 1,132.72	\$ 1,189.36	\$ 1,248.83	\$ 1,311.27
Bin 2.0/Frequency 6	\$ 1,059.90	\$ 1,245.98	\$ 1,308.28	\$ 1,373.69	\$ 1,442.37	\$ 1,514.49

Table 2 (Continued)

Maximum Proposed Monthly Refuse Rates

Commercial						
<i>Service/Size/Pickup</i>	<i>Current</i>	<i>Effective July 1,</i>				
		<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>2022</i>	<i>2023</i>
Commercial Permanent Roll-Off:						
6 Tons - 40 CY	\$ 437.46	\$ 481.40	\$ 505.47	\$ 530.74	\$ 557.28	\$ 585.14
8 Tons - 10/25/40 CY	\$ 527.15	\$ 582.17	\$ 611.28	\$ 641.84	\$ 673.93	\$ 707.63
Commercial Temporary Roll-Off:						
6 Tons - 40 CY	\$ 460.61	\$ 505.43	\$ 530.70	\$ 557.24	\$ 585.10	\$ 614.36
8 Tons - 10/25/40 CY	\$ 558.01	\$ 614.21	\$ 644.92	\$ 677.17	\$ 711.03	\$ 746.58
Commercial Recycling Roll-Off:						
6 Tons - 40 CY	\$ 168.39	\$ 179.09	\$ 188.04	\$ 197.44	\$ 207.31	\$ 217.68
8 Tons - 10/25/40 CY	\$ 168.39	\$ 179.09	\$ 188.04	\$ 197.44	\$ 207.31	\$ 217.68
Commercial Extra Services:						
Extra Pickup - Commercial Barrel	\$ 25.95	\$ 26.94	\$ 28.29	\$ 29.70	\$ 31.19	\$ 32.75
Extra Pickup - Commercial Bin	\$ 43.23	\$ 44.90	\$ 47.15	\$ 49.51	\$ 51.99	\$ 54.59
Extra Pickup - MultiFamily Bin	\$ 45.31	\$ 47.61	\$ 49.99	\$ 52.49	\$ 55.11	\$ 57.87
Extra Pickup - Compact Bin	\$ 103.27	\$ 108.51	\$ 113.94	\$ 119.64	\$ 125.62	\$ 131.90
Extra Pickup - Green Waste Bin	\$ 69.97	\$ 73.51	\$ 77.19	\$ 81.05	\$ 85.10	\$ 89.36
Extra Pickup - Food Waste Barrel	\$ 24.08	\$ 25.31	\$ 26.58	\$ 27.91	\$ 29.31	\$ 30.78
Extra Pickup - Food Waste Bin	\$ 89.04	\$ 93.55	\$ 98.23	\$ 103.14	\$ 108.30	\$ 113.72
Locking Container	\$ 6.56	\$ 6.82	\$ 7.16	\$ 7.52	\$ 7.90	\$ 8.30
Steam Cleaning (Compactors)	\$ 89.48	\$ 92.95	\$ 97.60	\$ 102.48	\$ 107.60	\$ 112.98
Bulky Item Trip Fee	\$ 41.77	\$ 43.39	\$ 45.56	\$ 47.84	\$ 50.23	\$ 52.74
Bulky Item Fee (each item)	\$ 11.93	\$ 12.39	\$ 13.01	\$ 13.66	\$ 14.34	\$ 15.06
Relocation Fee (Roll-Off)	\$ 89.48	\$ 92.95	\$ 97.60	\$ 102.48	\$ 107.60	\$ 112.98
Tilthopper	\$ 25.95	\$ 26.94	\$ 28.29	\$ 29.70	\$ 31.19	\$ 32.75
Rental Fee (per day)	\$ 24.06	\$ 25.00	\$ 26.25	\$ 27.56	\$ 28.94	\$ 30.39

Residential Refuse Rate Comparison

For comparison purposes, it is not known if all information obtained is complete. Additionally, "Unknown" has been displayed where the information was not available for the city.

Ranked By Total Vendor Charge

<i>Jurisdictions</i>	<i>Service</i>	<i>Total Vendor</i>	<i>City Fees</i>	<i>Total Rate</i>
Montclair (Current) - Burrtec	\$21.86	\$21.86	\$7.26	\$29.12
Highland - Burrtec	\$22.92	\$22.92	\$3.72	\$26.64
Grand Terrace - Burrtec **	\$23.98	\$23.98	\$4.82	\$28.80
La Verne - Waste Management	\$24.06	\$24.06	Unknown	\$24.06
Montclair (Proposed) - Burrtec	\$24.58	\$24.58	\$7.26	\$31.84
San Bernardino - Burrtec	\$24.92	\$24.92	\$5.37	\$30.29
Colton - Burrtec **	\$25.10	\$25.10	Unknown	\$25.10
Fontana - Burrtec	\$25.55	\$25.55	\$4.16	\$29.71
Rancho Cucamonga - Burrtec	\$25.75	\$25.75	\$4.81	\$30.56
Chino - Waste Management	\$25.94	\$25.94	Unknown	\$25.94
Upland - Burrtec	\$27.43	\$27.43	\$2.12	\$29.55
Rialto - Burrtec **	\$28.19	\$28.19	\$6.95	\$35.14
Pomona - City Provided	\$29.17	\$29.17	Unknown	\$29.17
Ontario - City Provided	\$31.27	\$31.27	Unknown	\$31.27
San Dimas - Waste Management	\$32.14	\$32.14	Unknown	\$32.14
Redlands - Burrtec	\$35.85	\$35.85	Unknown	\$35.85
Average - Excluding Montclair Current Charge		\$27.12		

Since the cities presented vary in the services which are included in the city fee portion, this is a not a direct comparison of the cost applicable to refuse collection and disposal.

Ranked By Total Rate

<i>Jurisdictions</i>	<i>Service</i>	<i>Total Vendor</i>	<i>City Fees</i>	<i>Total Rate</i>
La Verne - Waste Management	\$24.06	\$24.06	Unknown	\$24.06
Colton - Burrtec **	\$25.10	\$25.10	Unknown	\$25.10
Chino - Waste Management	\$25.94	\$25.94	Unknown	\$25.94
Highland - Burrtec	\$22.92	\$22.92	\$3.72	\$26.64
Grand Terrace - Burrtec **	\$23.98	\$23.98	\$4.82	\$28.80
Montclair (Current) - Burrtec	\$21.86	\$21.86	\$7.26	\$29.12
Pomona - City Provided	\$29.17	\$29.17	Unknown	\$29.17
Upland - Burrtec	\$27.43	\$27.43	\$2.12	\$29.55
Fontana - Burrtec	\$25.55	\$25.55	\$4.16	\$29.71
San Bernardino - Burrtec	\$24.92	\$24.92	\$5.37	\$30.29
Rancho Cucamonga - Burrtec	\$25.75	\$25.75	\$4.81	\$30.56
Ontario - City Provided	\$31.27	\$31.27	Unknown	\$31.27
Montclair (Proposed) - Burrtec	\$24.58	\$24.58	\$7.26	\$31.84
San Dimas - Waste Management	\$32.14	\$32.14	Unknown	\$32.14
Rialto - Burrtec **	\$28.19	\$28.19	\$6.95	\$35.14
Redlands - Burrtec	\$35.85	\$35.85	Unknown	\$35.85
Average - Excluding Montclair Current Charge				\$29.74

Cities include various items in the city fee portion depending upon what is needed to finance refuse related cleanup processes. Those processes include franchise fees, street sweeping, pavement impact, hazardous materials, administration, graffiti removal, illegal dumping, alleyway cleanup, etc. Since this is based upon the size and needs of the various communities it is difficult to compare.

** These cities are presently in negotiations with Burrtec and therefore the rates present represent the rate currently in existence and not those applicable to fiscal year 2019-2020. It is expected that due to increased costs in providing recyclable disposal services these will increase over those shown above.

Refuse Rate Comparisons Between Jurisdictions

Commercial Refuse Rate Comparison
Ranked By Total Vendor Charge

<i>Jurisdictions</i>	<i>Service</i>	<i>Total Vendor</i>	<i>City Fees</i>	<i>Total Rate</i>
Upland - Burrtec	\$164.53	\$164.53	\$0.00	\$164.53
Rancho Cucamonga - Burrtec	\$168.42	\$168.42	\$31.49	\$199.91
Fontana - Burrtec	\$169.53	\$169.53	\$23.12	\$192.65
Montclair (Current)	\$178.58	\$178.58	\$18.89	\$197.47
Highland - Burrtec	\$189.45	\$189.45	\$24.01	\$213.46
Montclair (Proposed)	\$193.68	\$193.68	\$19.77	\$213.45
Chino - Waste Management	\$241.64	\$241.64	Unknown	\$241.64
San Dimas - Waste Management	\$250.61	\$250.61	Unknown	\$250.61

Since the cities surveyed vary in the services included in the city fee portion this is a direct comparison of cost applicable to refuse collection and disposal.

Ranked By Total Rate

<i>Jurisdictions</i>	<i>Service</i>	<i>Total Vendor</i>	<i>City Fees</i>	<i>Total Rate</i>
Upland - Burrtec	\$164.53	\$164.53	\$0.00	\$164.53
Fontana - Burrtec	\$169.53	\$169.53	\$23.12	\$192.65
Montclair (Current)	\$178.58	\$178.58	\$18.89	\$197.47
Rancho Cucamonga - Burrtec	\$168.42	\$168.42	\$31.49	\$199.91
Montclair (Proposed)	\$193.68	\$193.68	\$19.77	\$213.45
Highland - Burrtec	\$189.45	\$189.45	\$24.01	\$213.46
Chino - Waste Management	\$241.64	\$241.64	Unknown	\$241.64
San Dimas - Waste Management	\$250.61	\$250.61	Unknown	\$250.61

RESOLUTION NO. 19-3237

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR ESTABLISHING PROPOSED SCHEDULES OF TOTAL MONTHLY RATES FOR REFUSE SERVICES, SUBJECT TO THE PROPOSITION 218 NOTIFICATION, PROTEST, AND PUBLIC HEARING PROCESS AND IN COMPLIANCE WITH THAT PROCESS DIRECTING THAT NOTICE THERETO BE PROVIDED TO PROPERTY OWNERS OF RECORD UPON WHICH PROPOSED FEES WOULD BE IMPOSED AND FURTHER DIRECTED AT 7:00 P.M. AT 7:00 P.M. THAT A PUBLIC HEARING ON SUCH PROPOSED FEES SHALL BE SET FOR JULY 15, 2019, AT 7:00 P.M. IN THE MONTCLAIR CITY COUNCIL CHAMBERS

WHEREAS, Article XIID, Section 6(a) of the State Constitution (Proposition 218), passed by the voters of California on November 5, 1996, requires municipalities to give detailed written notice to the owners of parcels upon which proposed water-, refuse-, and/or sewer-related fees or charges are to be applied; and

WHEREAS, on July 24, 2006, the California Supreme Court published its decision on *Bighorn-Desert View Water Agency v. Beringson*, addressing the property-related fee provisions of Proposition 218, and concluding that in relation to water-, refuse-, and sewer-related services where the rates for such services are set by a government agency, such "property-related" fees are subject to the public hearing requirements of Proposition 218; and

WHEREAS, Proposition 218 requires that a public hearing shall be conducted not less than 45 days after the mailing of a notice of a public hearing on property-related fee adjustments to the record owners of each identified parcel upon which the fee is proposed for imposition; and

WHEREAS, the Notice of Public Hearing shall include the amount of the fee to be imposed, the basis upon which the fee was calculated, the reason for the fee, together with the date, time, and location of the public hearing, and that the City Council of the City of Montclair hereby gives its consent to provide notice thereto; and

WHEREAS, such notice is attached hereto and by its reference is incorporated into the sum and parts of this Resolution and is approved by the City Council of the City of Montclair for mailing to the property owners of record upon which the proposed fees would be imposed; and

WHEREAS, if written protests against proposed property-related fees are presented by a majority of the property owners of record upon which the proposed fees would be imposed, the fee adjustment shall not be implemented; and

WHEREAS, if a majority protest is not received from the property owners of record upon which the proposed fees would be imposed, the proposed fees shall go into effect without further action, except that schedules of such fees shall first be adopted by Resolution of the Montclair City Council; and

WHEREAS, written protests can be provided to the City in advance and up to the date and time set for a public hearing; and

WHEREAS, a fee shall not be extended, imposed, or increased unless it meets each of the following requirements:

1. Revenues derived shall not exceed the funds required to provide the property-related service.
2. Revenues derived shall not be used for any purpose other than that for which the fee is imposed.
3. The fee imposed shall not exceed the proportional cost of the service.
4. No fee may be imposed unless the service is actually used by, or immediately available to, the owner of the property.
5. No fee may be imposed for general governmental services such as police, fire, ambulance, or library services where the service is available to the public at large in substantially the same manner as it is to property owners.

WHEREAS, Title 6, Chapter 6.16 of the Montclair Municipal Code establishes a mandatory Refuse Collection Program and a process for the collection of service fees related thereto; and

WHEREAS, effective March 1, 2018 the City Council raised the *Total Monthly Refuse Rate* to \$29.12 per month per nonsenior household—which was below the City's maximum authorization for refuse rates under Proposition 218; and \$197.47 per month for commercial accounts with at 3.0 yard bin and 1 pickup per week (majority of commercial customer service level); and

WHEREAS, the *Total Monthly Refuse Rate* consists of various rate components including the refuse service rate, disposal rate, landfill rate, recycling rate, greenwaste rate, household hazardous waste rate, general sanitation fee, franchise fee and administrative rate; and

WHEREAS, Burrtec Waste Industries, Inc. (Burrtec), the City's solid waste hauler, is requesting, and is authorized, a rate adjustment pursuant to the terms of the existing franchise agreement between the City and Burrtec; and

WHEREAS, the fiscal viability of the City's General Fund would be required to continue sharing a significant and growing responsibility for operating the Refuse Program; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair hereby establishes the following justification(s), rate calculation methodologies, and proposed schedule of rates for refuse services for the period July 1, 2019, through July 1, 2023, and that such rates shall be imposed on all record owners/rate payers of each identified parcel in the City of Montclair, subject to the Proposition 218 notification, protest, and hearing process:

Justification(s) and Rate Calculation Methodologies: The proposed justification(s) and rate calculation methodologies for each property owner's bimonthly bill for refuse services are as follows: Pursuant to the terms of the City's franchise service agreement with Burrtec (Agreement No. 18-26 and subsequent amendments thereto), refuse service rates are subject to annual percentage increases not to exceed the All Cities Consumer Price Index (CPI) for the *Los Angeles-Riverside-Orange Co. area, All-Items Indexes, All Urban Consumers, for the year ending in January*. The CPI fluctuates from year to year, making it an unstable predictor for rate adjustments; but long-term historic patterns can be used as reliable predictors—these patterns produce averages that, when calculated over specified consecutive periods of years, are typically at or below 5 percent. The City's formula for annually adjusting the *Total Monthly Refuse Rate* is based on the CPI; therefore, projected annual rate increases cannot be predicted precisely. However, based on historic patterns, the City can project that when applied over the next five years (July 1, 2019, through July 1, 2023), the average for rate adjustments would not likely exceed 5 percent per year. Accordingly, and except for the July 1, 2019 proposed rate adjustment, an annual CPI of 5 percent is the methodology used to project annual rate increases for the *Total Monthly Refuse Rate*.

Based on this analysis and justifications contained in other relevant sections of this Resolution, the City Council proposes an initial adjustment for July 1, 2019 that increases to residential refuse so that the *Total Monthly Refuse Rate* is \$31.84—the actual cost to the City to provide residential refuse services. The senior household rate would be adjusted to \$25.47—20 percent less than the proposed nonsenior household rate of \$31.84. Commercial refuse vary by bin size and frequency of collection and those also would be increased to the amounts present in **Table 2** of Appendix 1 attached hereto—the actual cost to the City to provide commercial refuse services. The July 1, 2019 rate adjustment would be followed by annual rate increases over a 5-year period not to exceed 5 percent annually. State law (Section 53753.5 of the Government Code) provides that, under Proposition 218, property-related fees can be adjusted on an annual basis provided the formula for adjusting rates does not change or does not change in a way that would otherwise impose future increases that are higher than the fee formula contained herein would allow; accordingly, annual rate adjustments may continue indefinitely under the methodology contained herein.

Table 1 indicates the current *Total Monthly Refuse Rate* charged in the City of Montclair.

Table 1
Current Monthly Refuse Rates

<i>Fee Components</i>	<i>Residential</i>	<i>Commercial *</i>
Refuse Service Rate	\$15.50	\$106.42
Disposal/Recycling/Landfill Fees	\$6.36	\$72.16
Total Cost of Services-Burrtec	\$21.86	\$178.58
General Sanitation Fee	\$2.82	\$5.20
Franchise Fee	N/A	\$10.14
Administrative/Pavement Impact Fee	\$3.99	\$3.55
Household Hazardous Waste Fee	\$0.45	N/A
Total Monthly Cost	\$29.12	\$197.47

* Commercial rates vary by size of bins and frequency of collection. The majority of service levels in the City are for 3.0 yard bins collected once per week. The rates shown above reflect that service level; however, all service levels are shown in Table 2.

Table 2 of Appendix 1 attached hereto indicates the City of Montclair's current and proposed rates as well as the *Maximum Total Monthly Refuse Rate* for the period from July 1, 2019, through July 1, 2023 and attached hereto and is incorporated into the sum and parts of this Resolution.

BE IT FURTHER RESOLVED that all proposed *Total Monthly Refuse Rates* are approximate. Actual *Total Monthly Refuse Rate* charges for each year will not be higher than the proposed rates, as indicated. In the event that rates higher than those proposed are required to meet program needs, the City is required to reconduct the Proposition 218 notification, protest, and hearing process. Fees imposed do not exceed the proportional cost of the service attributable to each affected parcel, and revenues derived are not expected to exceed the cost of service.

BE IT FURTHER RESOLVED that in the event a majority protest of property owners against the proposed schedule of rates for Refuse services fail(s), such rate schedule(s) shall be effective immediately after the Proposition 218 public hearing and upon approval by the Montclair City Council, by Resolution, prior to implementation.

BE IT FINALLY RESOLVED that the City Council of the City of Montclair hereby sets a public hearing for Monday, July 15, 2019, at 7:00 p.m., in the Montclair City Council Chambers to provide interested parties, including property owners, an opportunity to provide oral or written protests to the schedule of Refuse Program rates and that only those protests submitted in writing shall be counted.

APPROVED AND ADOPTED this XX day of XX, 2019.

Mayor

ATTEST:

City Clerk

I, Andrea M. Phillips, City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 19-3237 was duly adopted by the City Council of said city and was approved by the Mayor of said city at a regular meeting of said City Council held on the XX day of XX, 2019, and that it was adopted by the following vote, to-wit:

AYES: XX
NOES: XX
ABSTAIN: XX
ABSENT: XX

Andrea M. Phillips
City Clerk

Table 2
Maximum Proposed Monthly Refuse Rates

Residential						
Service/Size/Pickup	Current	Effective July 1,				
		2019	2020	2021	2022	2023
Household Rate	\$ 29.12	\$ 31.84	\$ 33.43	\$ 35.10	\$ 36.86	\$ 38.70
Extra Barrel - Refuse	\$ 5.78	\$ 6.22	\$ 6.53	\$ 6.86	\$ 7.20	\$ 7.56
Extra Barrel - Recycling	\$ 1.31	\$ 1.41	\$ 1.48	\$ 1.55	\$ 1.63	\$ 1.71
Extra Barrel - Green Waste	\$ 3.68	\$ 3.96	\$ 4.16	\$ 4.37	\$ 4.59	\$ 4.82
Extra Pick-Up - Res. Barrel	\$ 15.57	\$ 16.17	\$ 16.98	\$ 17.83	\$ 18.72	\$ 19.66
Bin 1.5/Frequency 1	\$ 114.01	\$ 123.57	\$ 129.75	\$ 136.24	\$ 143.05	\$ 150.20
Bin 1.5 Recycling (Extra)	\$ 68.52	\$ 77.50	\$ 81.38	\$ 85.45	\$ 89.72	\$ 94.21
Commercial						
Service/Size/Pickup	Current	Effective July 1,				
		2019	2020	2021	2022	2023
Multifamily Commercial:						
Barrel	\$ 27.62	\$ 31.18	\$ 32.74	\$ 34.38	\$ 36.10	\$ 37.91
Bin 1.5/Frequency 1	\$ 125.98	\$ 134.47	\$ 141.19	\$ 148.25	\$ 155.66	\$ 163.44
Bin 1.5/Frequency 2	\$ 236.64	\$ 255.70	\$ 268.49	\$ 281.91	\$ 296.01	\$ 310.81
Bin 1.5/Frequency 3	\$ 347.25	\$ 376.31	\$ 395.13	\$ 414.89	\$ 435.63	\$ 457.41
Bin 2.0/Frequency 1	\$ 147.70	\$ 159.50	\$ 167.48	\$ 175.85	\$ 184.64	\$ 193.87
Bin 2.0/Frequency 2	\$ 268.03	\$ 300.59	\$ 315.62	\$ 331.40	\$ 347.97	\$ 365.37
Bin 2.0/Frequency 3	\$ 390.71	\$ 440.91	\$ 462.96	\$ 486.11	\$ 510.42	\$ 535.94
Bin 3.0/Frequency 1	\$ 208.75	\$ 228.61	\$ 240.04	\$ 252.04	\$ 264.64	\$ 277.87
Bin 3.0/Frequency 2	\$ 352.80	\$ 408.57	\$ 429.00	\$ 450.45	\$ 472.97	\$ 496.62
Bin 3.0/Frequency 3	\$ 499.60	\$ 587.66	\$ 617.04	\$ 647.89	\$ 680.28	\$ 714.29
Bin 3.0/Frequency 4	\$ 646.42	\$ 766.02	\$ 804.32	\$ 844.54	\$ 886.77	\$ 931.11
Bin 3.0/Frequency 5	\$ 793.21	\$ 945.07	\$ 992.32	\$ 1,041.94	\$ 1,094.04	\$ 1,148.74
Bin 3.0/Frequency 6	\$ 940.04	\$ 1,124.11	\$ 1,180.32	\$ 1,239.34	\$ 1,301.31	\$ 1,366.38
Commercial with Recycling:						
Barrel - 95 Gal/Frequency 1	\$ 36.03	\$ 38.76	\$ 40.70	\$ 42.74	\$ 44.88	\$ 47.12
Barrel - 95 Gal/Frequency 2	\$ 59.98	\$ 67.57	\$ 70.95	\$ 74.50	\$ 78.23	\$ 82.14
Barrel - 95 Gal/Frequency 3	\$ 84.90	\$ 96.06	\$ 100.86	\$ 105.90	\$ 111.20	\$ 116.76
Barrel - 95 Gal/Frequency 4	\$ 109.84	\$ 124.50	\$ 130.73	\$ 137.27	\$ 144.13	\$ 151.34
Barrel - 95 Gal/Frequency 5	\$ 134.77	\$ 152.96	\$ 160.61	\$ 168.64	\$ 177.07	\$ 185.92
Barrel - 95 Gal/Frequency 6	\$ 159.70	\$ 181.43	\$ 190.50	\$ 200.03	\$ 210.03	\$ 220.53
Bin 1.5/Frequency 1	\$ 118.92	\$ 127.70	\$ 134.09	\$ 140.79	\$ 147.83	\$ 155.22
Bin 1.5/Frequency 2	\$ 222.76	\$ 239.73	\$ 251.72	\$ 264.31	\$ 277.53	\$ 291.41
Bin 1.5/Frequency 3	\$ 329.06	\$ 354.35	\$ 372.07	\$ 390.67	\$ 410.20	\$ 430.71
Bin 1.5/Frequency 4	\$ 412.46	\$ 462.07	\$ 485.17	\$ 509.43	\$ 534.90	\$ 561.65
Bin 1.5/Frequency 5	\$ 504.72	\$ 566.18	\$ 594.49	\$ 624.21	\$ 655.42	\$ 688.19
Bin 1.5/Frequency 6	\$ 597.03	\$ 670.30	\$ 703.82	\$ 739.01	\$ 775.96	\$ 814.76
Bin 2.0/Frequency 1	\$ 139.04	\$ 150.00	\$ 157.50	\$ 165.38	\$ 173.65	\$ 182.33
Bin 2.0/Frequency 2	\$ 257.36	\$ 279.36	\$ 293.33	\$ 308.00	\$ 323.40	\$ 339.57
Bin 2.0/Frequency 3	\$ 374.43	\$ 409.18	\$ 429.64	\$ 451.12	\$ 473.68	\$ 497.36
Bin 2.0/Frequency 4	\$ 471.60	\$ 533.73	\$ 560.42	\$ 588.44	\$ 617.86	\$ 648.75
Bin 2.0/Frequency 5	\$ 578.53	\$ 655.62	\$ 688.40	\$ 722.82	\$ 758.96	\$ 796.91
Bin 2.0/Frequency 6	\$ 685.51	\$ 777.59	\$ 816.47	\$ 857.29	\$ 900.15	\$ 945.16
Bin 3.0/Frequency 1	\$ 197.47	\$ 213.45	\$ 224.12	\$ 235.33	\$ 247.10	\$ 259.46
Bin 3.0/Frequency 2	\$ 336.54	\$ 376.84	\$ 395.68	\$ 415.46	\$ 436.23	\$ 458.04
Bin 3.0/Frequency 3	\$ 474.71	\$ 539.85	\$ 566.84	\$ 595.18	\$ 624.94	\$ 656.19
Bin 3.0/Frequency 4	\$ 613.39	\$ 702.72	\$ 737.86	\$ 774.75	\$ 813.49	\$ 854.16
Bin 3.0/Frequency 5	\$ 752.06	\$ 865.53	\$ 908.81	\$ 954.25	\$ 1,001.96	\$ 1,052.06
Bin 3.0/Frequency 6	\$ 890.76	\$ 1,029.09	\$ 1,080.54	\$ 1,134.57	\$ 1,191.30	\$ 1,250.87
Temp. 3.0/ 7 Days Frequency 1	\$ 97.02	\$ 111.15	\$ 116.71	\$ 122.55	\$ 128.68	\$ 135.11

Table 2 (Continued)

Maximum Proposed Monthly Refuse Rates

Commercial						
Service/Size/Pickup	Current	Effective July 1,				
		2019	2020	2021	2022	2023
Commercial Greenwaste:						
Bin 3.0/Frequency 1	\$ 173.27	\$ 184.12	\$ 193.33	\$ 203.00	\$ 213.15	\$ 223.81
Bin 3.0/Frequency 2	\$ 295.33	\$ 315.06	\$ 330.81	\$ 347.35	\$ 364.72	\$ 382.96
Bin 3.0/Frequency 3	\$ 417.45	\$ 446.06	\$ 468.36	\$ 491.78	\$ 516.37	\$ 542.19
Bin 3.0/Frequency 4	\$ 539.52	\$ 577.01	\$ 605.86	\$ 636.15	\$ 667.96	\$ 701.36
Bin 3.0/Frequency 5	\$ 661.61	\$ 707.95	\$ 743.35	\$ 780.52	\$ 819.55	\$ 860.53
Bin 3.0/Frequency 6	\$ 783.69	\$ 838.93	\$ 880.88	\$ 924.92	\$ 971.17	\$ 1,019.73
Commercial Compacted:						
Bin 3.0/Frequency 1	\$ 255.75	\$ 278.93	\$ 292.88	\$ 307.52	\$ 322.90	\$ 339.05
Bin 3.0/Frequency 2	\$ 461.16	\$ 505.08	\$ 530.33	\$ 556.85	\$ 584.69	\$ 613.92
Bin 3.0/Frequency 3	\$ 665.76	\$ 730.87	\$ 767.41	\$ 805.78	\$ 846.07	\$ 888.37
Bin 3.0/Frequency 4	\$ 870.31	\$ 956.64	\$ 1,004.47	\$ 1,054.69	\$ 1,107.42	\$ 1,162.79
Bin 3.0/Frequency 5	\$ 1,074.87	\$ 1,182.42	\$ 1,241.54	\$ 1,303.62	\$ 1,368.80	\$ 1,437.24
Bin 3.0/Frequency 6	\$ 1,280.28	\$ 1,408.56	\$ 1,478.99	\$ 1,552.94	\$ 1,630.59	\$ 1,712.12
Bin 4.0/Frequency 1	\$ 883.78	\$ 970.64	\$ 1,019.17	\$ 1,070.13	\$ 1,123.64	\$ 1,179.82
Commercial Recycling (Extra):						
Bin 1.5/Frequency 1	\$ 79.39	\$ 88.78	\$ 93.22	\$ 97.88	\$ 102.77	\$ 107.91
Bin 1.5/Frequency 2	\$ 144.94	\$ 162.76	\$ 170.90	\$ 179.45	\$ 188.42	\$ 197.84
Bin 1.5/Frequency 3	\$ 210.52	\$ 237.18	\$ 249.04	\$ 261.49	\$ 274.56	\$ 288.29
Bin 2.0/Frequency 1	\$ 86.18	\$ 97.66	\$ 102.54	\$ 107.67	\$ 113.05	\$ 118.70
Bin 2.0/Frequency 2	\$ 152.34	\$ 174.49	\$ 183.21	\$ 192.37	\$ 201.99	\$ 212.09
Bin 2.0/Frequency 3	\$ 218.44	\$ 251.31	\$ 263.88	\$ 277.07	\$ 290.92	\$ 305.47
Bin 3.0/Frequency 1	\$ 118.43	\$ 135.22	\$ 141.98	\$ 149.08	\$ 156.53	\$ 164.36
Bin 3.0/Frequency 2	\$ 185.68	\$ 217.28	\$ 228.14	\$ 239.55	\$ 251.53	\$ 264.11
Bin 3.0/Frequency 3	\$ 252.95	\$ 299.36	\$ 314.33	\$ 330.05	\$ 346.55	\$ 363.88
Bin 3.0/Frequency 4	\$ 320.20	\$ 381.42	\$ 400.49	\$ 420.51	\$ 441.54	\$ 463.62
Bin 3.0/Frequency 5	\$ 387.43	\$ 463.47	\$ 486.64	\$ 510.97	\$ 536.52	\$ 563.35
Bin 3.0/Frequency 6	\$ 454.69	\$ 545.55	\$ 572.83	\$ 601.47	\$ 631.54	\$ 663.12
Commercial Food Waste						
Barrel - 65 Gal/Frequency 1	\$ 59.62	\$ 68.97	\$ 72.42	\$ 76.04	\$ 79.84	\$ 83.83
Barrel - 65 Gal/Frequency 2	\$ 108.12	\$ 126.30	\$ 132.62	\$ 139.25	\$ 146.21	\$ 153.52
Barrel - 65 Gal/Frequency 3	\$ 153.05	\$ 179.87	\$ 188.86	\$ 198.30	\$ 208.22	\$ 218.63
Barrel - 65 Gal/Frequency 4	\$ 198.29	\$ 233.76	\$ 245.45	\$ 257.72	\$ 270.61	\$ 284.14
Barrel - 65 Gal/Frequency 5	\$ 250.40	\$ 294.86	\$ 309.60	\$ 325.08	\$ 341.33	\$ 358.40
Barrel - 65 Gal/Frequency 6	\$ 288.29	\$ 341.01	\$ 358.06	\$ 375.96	\$ 394.76	\$ 414.50
Bin 1.5/Frequency 1	\$ 178.07	\$ 203.63	\$ 213.81	\$ 224.50	\$ 235.73	\$ 247.52
Bin 1.5/Frequency 2	\$ 310.13	\$ 358.97	\$ 376.92	\$ 395.77	\$ 415.56	\$ 436.34
Bin 1.5/Frequency 3	\$ 432.90	\$ 504.48	\$ 529.70	\$ 556.19	\$ 584.00	\$ 613.20
Bin 1.5/Frequency 4	\$ 554.46	\$ 648.75	\$ 681.19	\$ 715.25	\$ 751.01	\$ 788.56
Bin 1.5/Frequency 5	\$ 674.63	\$ 791.57	\$ 831.15	\$ 872.71	\$ 916.35	\$ 962.17
Bin 1.5/Frequency 6	\$ 795.09	\$ 934.66	\$ 981.39	\$ 1,030.46	\$ 1,081.98	\$ 1,136.08
Bin 2.0/Frequency 1	\$ 220.47	\$ 253.69	\$ 266.37	\$ 279.69	\$ 293.67	\$ 308.35
Bin 2.0/Frequency 2	\$ 398.82	\$ 463.15	\$ 486.31	\$ 510.63	\$ 536.16	\$ 562.97
Bin 2.0/Frequency 3	\$ 563.67	\$ 658.42	\$ 691.34	\$ 725.91	\$ 762.21	\$ 800.32
Bin 2.0/Frequency 4	\$ 729.72	\$ 854.97	\$ 897.72	\$ 942.61	\$ 989.74	\$ 1,039.23
Bin 2.0/Frequency 5	\$ 921.74	\$ 1,078.78	\$ 1,132.72	\$ 1,189.36	\$ 1,248.83	\$ 1,311.27
Bin 2.0/Frequency 6	\$ 1,059.90	\$ 1,245.98	\$ 1,308.28	\$ 1,373.69	\$ 1,442.37	\$ 1,514.49

Table 2 (Continued)

Maximum Proposed Monthly Refuse Rates

Commercial						
Service/Size/Pickup	Current	Effective July 1,				
		2019	2020	2021	2022	2023
Commercial Permanent Roll-Off:						
6 Tons - 40 CY	\$ 437.46	\$ 481.40	\$ 505.47	\$ 530.74	\$ 557.28	\$ 585.14
8 Tons - 10/25/40 CY	\$ 527.15	\$ 582.17	\$ 611.28	\$ 641.84	\$ 673.93	\$ 707.63
Commercial Temporary Roll-Off:						
6 Tons - 40 CY	\$ 460.61	\$ 505.43	\$ 530.70	\$ 557.24	\$ 585.10	\$ 614.36
8 Tons - 10/25/40 CY	\$ 558.01	\$ 614.21	\$ 644.92	\$ 677.17	\$ 711.03	\$ 746.58
Commercial Recycling Roll-Off:						
6 Tons - 40 CY	\$ 168.39	\$ 179.09	\$ 188.04	\$ 197.44	\$ 207.31	\$ 217.68
8 Tons - 10/25/40 CY	\$ 168.39	\$ 179.09	\$ 188.04	\$ 197.44	\$ 207.31	\$ 217.68
Commercial Extra Services:						
Extra Pickup - Commercial Barrel	\$ 25.95	\$ 26.94	\$ 28.29	\$ 29.70	\$ 31.19	\$ 32.75
Extra Pickup - Commercial Bin	\$ 43.23	\$ 44.90	\$ 47.15	\$ 49.51	\$ 51.99	\$ 54.59
Extra Pickup - MultiFamily Bin	\$ 45.31	\$ 47.61	\$ 49.99	\$ 52.49	\$ 55.11	\$ 57.87
Extra Pickup - Compact Bin	\$ 103.27	\$ 108.51	\$ 113.94	\$ 119.64	\$ 125.62	\$ 131.90
Extra Pickup - Green Waste Bin	\$ 69.97	\$ 73.51	\$ 77.19	\$ 81.05	\$ 85.10	\$ 89.36
Extra Pickup - Food Waste Barrel	\$ 24.08	\$ 25.31	\$ 26.58	\$ 27.91	\$ 29.31	\$ 30.78
Extra Pickup - Food Waste Bin	\$ 89.04	\$ 93.55	\$ 98.23	\$ 103.14	\$ 108.30	\$ 113.72
Locking Container	\$ 6.56	\$ 6.82	\$ 7.16	\$ 7.52	\$ 7.90	\$ 8.30
Steam Cleaning (Compactors)	\$ 89.48	\$ 92.95	\$ 97.60	\$ 102.48	\$ 107.60	\$ 112.98
Bulky Item Trip Fee	\$ 41.77	\$ 43.39	\$ 45.56	\$ 47.84	\$ 50.23	\$ 52.74
Bulky Item Fee (each item)	\$ 11.93	\$ 12.39	\$ 13.01	\$ 13.66	\$ 14.34	\$ 15.06
Relocation Fee (Roll-Off)	\$ 89.48	\$ 92.95	\$ 97.60	\$ 102.48	\$ 107.60	\$ 112.98
Tilthopper	\$ 25.95	\$ 26.94	\$ 28.29	\$ 29.70	\$ 31.19	\$ 32.75
Rental Fee (per day)	\$ 24.06	\$ 25.00	\$ 26.25	\$ 27.56	\$ 28.94	\$ 30.39

RESOLUTION NO. 19-3238

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR ESTABLISHING PROPOSED SCHEDULES OF TOTAL MONTHLY RATES FOR SEWER SERVICES, SUBJECT TO THE PROPOSITION 218 NOTIFICATION, PROTEST, AND PUBLIC HEARING PROCESS AND IN COMPLIANCE WITH THAT PROCESS DIRECTING THAT NOTICE THERETO BE PROVIDED TO PROPERTY OWNERS OF RECORD UPON WHICH PROPOSED FEES WOULD BE IMPOSED AND FURTHER DIRECTING THAT A PUBLIC HEARING ON SUCH PROPOSED FEES SHALL BE SET FOR JULY 15, 2019, AT 7:00 P.M. IN THE MONTCLAIR CITY COUNCIL CHAMBERS

WHEREAS, Article XIID, Section 6(a) of the State Constitution (Proposition 218), passed by the voters of California on November 5, 1996, requires municipalities to give detailed written notice to the owners of parcels upon which proposed water-, refuse-, and/or sewer-related fees or charges are to be applied; and

WHEREAS, on July 24, 2006, the California Supreme Court published its decision on *Bighorn-Desert View Water Agency v. Beringson*, addressing the property-related fee provisions of Proposition 218, and concluding that in relation to water-, refuse-, and sewer-related services where the rates for such services are set by a government agency, such "property-related" fees are subject to the public hearing requirements of Proposition 218; and

WHEREAS, Proposition 218 requires that a public hearing shall be conducted not less than 45 days after the mailing of a notice of a public hearing on property-related fee adjustments to the record owners of each identified parcel upon which the fee is proposed for imposition; and

WHEREAS, the Notice of Public Hearing shall include the amount of the fee to be imposed, the basis upon which the fee was calculated, the reason for the fee, together with the date, time, and location of the public hearing, and that the City Council of the City of Montclair hereby gives its consent to provide notice thereto; and

WHEREAS, such notice is attached hereto and by its reference is incorporated into the sum and parts of this Resolution and is approved by the City Council of the City of Montclair for mailing to the property owners of record upon which the proposed fees would be imposed; and

WHEREAS, if written protests against proposed property-related fees are presented by a majority of the property owners of record upon which the proposed fees would be imposed, the fee adjustment shall not be implemented; and

WHEREAS, if a majority protest is not received from the property owners of record upon which the proposed fees would be imposed, the proposed fees shall go into effect without further action, except that schedules of such fees shall first be adopted by Resolution of the Montclair City Council; and

WHEREAS, written protests can be provided to the City in advance and up to the date and time set for a public hearing; and

WHEREAS, a fee shall not be extended, imposed, or increased unless it meets each of the following requirements:

1. Revenues derived shall not exceed the funds required to provide the property-related service.
2. Revenues derived shall not be used for any purpose other than that for which the fee is imposed.
3. The fee imposed shall not exceed the proportional cost of the service.
4. No fee may be imposed unless the service is actually used by, or immediately available to, the owner of the property.
5. No fee may be imposed for general governmental services such as police, fire, ambulance, or library services where the service is available to the public at large in substantially the same manner as it is to property owners.

WHEREAS, Title 9, Chapter 9.20 of the Montclair Municipal Code establishes a mandatory Sewer Collection Program and a process for the collection of service fees related thereto; and

WHEREAS, effective July 1, 2017 the City Council raised the *Total Monthly Sewer Rate* to \$27.11 which was the City's maximum authorization for sewer rates under Proposition 218); and

WHEREAS, the *Total Monthly Sewer Rate* consists of three rate components including the Sewage Treatment component representing the cost of sewage treatment by the Inland Empire Utility Agency and passed on to the City, the Sewer Maintenance component representing the City's cost to maintain the sewer system and the Infrastructure Replacement/Rehabilitation component representing the City's cost to replace or rehabilitate deteriorating portions of the sewer system; and

WHEREAS, the fiscal viability of the City's Sewer Fund would be required to continue sharing a significant and growing responsibility for operating the Sewer Program; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair hereby establishes the following justification(s), rate calculation methodologies, and proposed schedule of rates for sewer services for the period July 1, 2019, through July 1, 2023, and that such rates shall be imposed on all record owners/rate payers of each identified parcel in the City of Montclair, subject to the Proposition 218 notification, protest, and hearing process:

Justification(s) and Rate Calculation Methodologies: The proposed justification(s) and rate calculation methodologies for each property owner's bimonthly bill for Sewer services are as follows: Based on historic patterns, the City can project that when applied over the next five years (July 1, 2019, through July 1, 2023), the average for rate adjustments would not likely exceed 5 percent per year. Accordingly, and except for the July 1, 2019 proposed rate adjustment, an annual CPI of 5 percent is the methodology used to project annual rate increases for the *Total Monthly Sewer Rate*.

Based on this analysis and justifications contained in other relevant sections of this Resolution, the City Council proposes an initial adjustment for July 1, 2019 that increases to residential Sewer so that the *Total Monthly Sewer Rate* is \$28.56—the actual cost to the City to provide residential Sewer services. The July 1, 2019 rate adjustment would be followed by annual rate increases over a 5-year period not to exceed 5 percent annually. State law (Section 53753.5 of the Government Code) provides that, under Proposition 218, property-related fees can be adjusted on an annual basis provided the formula for adjusting rates does not change or does not change in a way that would otherwise impose future increases that are higher than the fee formula contained herein would allow; accordingly, annual rate adjustments may continue indefinitely under the methodology contained herein.

Table 1 below indicates the City of Montclair's current and proposed rates as well as the *Maximum Total Monthly Sewer Rate* for the period from July 1, 2019, through July 1, 2023.

Table 1
Current & Proposed Sewer Rates

<i>Effective Date</i>	<i>Part 1 Fee</i>	<i>Part 2 Fee</i>	<i>Part 3 Fee</i>	<i>Total</i>
Current	\$ 18.89	\$ 6.72	\$ 1.50	\$ 27.11
Proposed:				
07/01/19	\$ 20.00	\$ 7.06	\$ 1.50	\$ 28.56
07/01/20	\$ 21.00	\$ 7.41	\$ 1.50	\$ 29.91
07/01/21	\$ 22.05	\$ 7.78	\$ 1.50	\$ 31.33
07/01/22	\$ 23.15	\$ 8.17	\$ 1.50	\$ 32.82
07/01/23	\$ 24.31	\$ 8.58	\$ 1.50	\$ 34.39

BE IT FURTHER RESOLVED that all proposed *Total Monthly Sewer Rates* are approximate. Actual *Total Monthly Sewer Rate* charges for each year will not be higher than the proposed rates, as indicated. In the event that rates higher than those proposed are required to meet program needs, the City is required to reconduct the

Proposition 218 notification, protest, and hearing process. Fees imposed do not exceed the proportional cost of the service attributable to each affected parcel, and revenues derived are not expected to exceed the cost of service.

BE IT FURTHER RESOLVED that in the event a majority protest of property owners against the proposed schedule of rates for Sewer services fail(s), such rate schedule(s) shall be effective immediately after the Proposition 218 public hearing and upon approval by the Montclair City Council, by Resolution, prior to implementation.

BE IT FINALLY RESOLVED that the City Council of the City of Montclair hereby sets a public hearing for Monday, July 15, 2019, at 7:00 p.m., in the Montclair City Council Chambers to provide interested parties, including property owners, an opportunity to provide oral or written protests to the schedule of Sewer Program rates and that only those protests submitted in writing shall be counted.

APPROVED AND ADOPTED this XX day of XX, 2019.

Mayor

ATTEST:

City Clerk

I, Andrea M. Phillips, City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 19-3238 was duly adopted by the City Council of said city and was approved by the Mayor of said city at a regular meeting of said City Council held on the XX day of XX, 2019, and that it was adopted by the following vote, to-wit:

AYES: XX
NOES: XX
ABSTAIN: XX
ABSENT: XX

Andrea M. Phillips
City Clerk

**MINUTES OF THE MEETING OF THE MONTCLAIR
PERSONNEL COMMITTEE HELD ON MONDAY, MAY
6, 2019, AT 8:32 P.M. IN THE CITY
ADMINISTRATIVE OFFICES, 5111 BENITO STREET,
MONTCLAIR, CALIFORNIA**

I. CALL TO ORDER

Mayor Pro Tem Raft called the meeting to order at 8:32 p.m.

II. ROLL CALL

Present: Mayor Pro Tem Raft, Council Member Ruh, and City Manager Starr

III. APPROVAL OF MINUTES

A. Minutes of the Regular Personnel Committee Meeting of April 15, 2019.

Moved by Council Member Ruh, seconded by Mayor Pro Tem Raft, and carried unanimously to approve the minutes of the Personnel Committee meeting of April 15, 2019.

IV. PUBLIC COMMENT - None

V. CLOSED SESSION

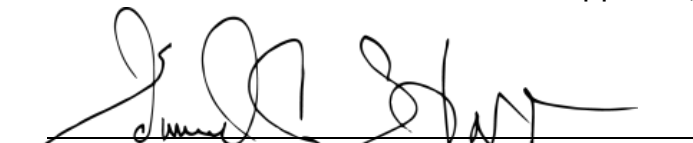
At 8:33 p.m., the Personnel Committee went into Closed Session regarding personnel matters related to appointments, resignations/terminations, and evaluations of employee performance.

At 9:18 p.m., the Personnel Committee returned from Closed Session. Mayor Pro Tem Raft stated that no announcements would be made at this time.

VI. ADJOURNMENT

At 9:18 p.m., Mayor Pro Tem Raft adjourned the Personnel Committee.

Submitted for Personnel Committee approval,



Edward C. Starr
City Manager